

## TITLE

# UNIFORM REGULATIONS REGARDING THE INTERPRETATION, APPLICATION, AND ADMINISTRATION OF CHAPTERS 5 (ORIGIN PROCEDURES), 6 (TEXTILE AND APPAREL GOODS), AND 7 (CUSTOMS ADMINISTRATION AND TRADE FACILITATION) OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA.

## PREAMBLE

The Government of the United States of America, the Government of the United Mexican States and the Government of Canada, pursuant to Article 5.16 of the *Agreement between the United States of America, the United Mexican States, and Canada* (the “Agreement”), contained as an Annex to the *Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada* (the “Protocol”), done at Buenos Aires, Argentina on November 30<sup>th</sup>, 2018, as amended by the *Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada*, done at Mexico City on December 10<sup>th</sup>, 2019 (“the Amending Protocol”) adopt the following Uniform Regulations regarding the interpretation, application, and administration of Chapters 5 (Origin Procedures), 6 (Textiles and Apparel Goods), and 7 (Customs Administration and Trade Facilitation), of the Agreement;

## CHAPTER 5 ORIGIN PROCEDURES

### Claims for Preferential Tariff Treatment

1. For the purposes of Article 5.2(6) of the Agreement, once a Party receives a certification of origin electronically, it shall not require a paper document of the same certification prior to release of the goods in the Party’s territory.
2. For the purposes of Article 5.2(3)(b) and (d) of the Agreement, Article 5.2(3)(d) of the Agreement forms part of the minimum data elements as set out in Annex 5-A, Minimum Data Elements.

### Basis of a Certification of Origin

1. For the purposes of Article 5.3(5)(a) of the Agreement, a single certification of origin may be used for:
  - (a) a single shipment of goods that results in the filing of one or more entries on the importation of the goods into the territory of a Party; or
  - (b) more than one shipment of goods that results in the filing of one entry on the importation of the goods into the territory of a Party.
2. Where as a result of an origin verification conducted under Article 5.9 or Article 6.6 of the Agreement, the customs administration of a Party determines that a good covered by a certification of origin that

applies to multiple importations of identical goods in accordance with Article 5.3(5)(b) of the Agreement does not qualify as an originating good, such certification of origin may not be used to claim preferential tariff treatment for those identical goods imported after the date that the written determination is provided under Article 5.9(14) of the Agreement.

### **Obligations Regarding Importations**

1. For the purposes of Article 5.4(1)(a) and (b) of the Agreement “valid certification of origin” means a certification of origin that the exporter, producer, or importer of a good in the territory of the Parties completes in accordance with the requirements set out in Article 5.2(3)(b) of the Agreement and these Uniform Regulations.

2. For the purposes of Article 5.4(3)(b) of the Agreement, “relevant documents”, may include:

- (a) Storage documents;
- (b) Copy of the customs control documents;
- (c) Customs entry and exit documents;
- (d) Documents demonstrating customs control issued by a non-Party government authority other than its customs administration;
- (e) Documents demonstrating customs control issued by an entity authorized by a customs administration to issue such documents; or
- (f) Any other evidence that satisfies the customs administration of the Party.

### **Exceptions to Certification of Origin**

- 1. For the purposes of Article 5.5(a) of the Agreement, where a Party requires a written representation, it may be completed and submitted electronically.
- 2. For the purposes of Article 5.5 of the Agreement, "series of importations" is defined in Annex 2.

### **Obligations Regarding Exportations**

- 1. For the purposes of Article 5.6(2) of the Agreement, where the customs administration of a Party provides an exporter or producer of a good with a determination under Article 5.9(14) of the Agreement that the good is a non-originating good, the exporter or producer shall notify all persons to whom it gave a certification of origin in respect of that good of the determination.
- 2. For the purposes of Article 5.6(3) of the Agreement, no Party may impose civil or administrative penalties on an exporter or producer of a good in its territory where the exporter or producer, prior to the commencement of an investigation by officials of that Party with the authority to conduct an investigation regarding the certification of origin, provides the written notification referred to in Article 5.6(2) of the Agreement.

### **Record Keeping Requirements**

1. The documentation and records required to be maintained under Article 5.8 of the Agreement shall be maintained in such a manner as to enable an officer of the customs administration of a Party, in conducting an origin verification under Article 5.9 of the Agreement, to perform detailed verifications of the documentation and records to verify the information on the basis of which the certification of origin was completed and the claim for preferential tariff treatment was made.
2. Importers, exporters and producers that are required to maintain records pursuant to Article 5.8(1) and (2) of the Agreement shall, subject to the notification and consent requirements provided for in Article 5.9(5) of the Agreement, make those records available for inspection by an officer of the customs administration of a Party conducting a verification, and in case of a verification visit, provide facilities for that inspection.
3. Where a customs administration finds, during the course of an origin verification, that an importer, exporter or producer has failed to maintain its records or documentation relevant to determining the origin of the good in accordance with the Generally Accepted Accounting Principles or otherwise accepted inventory management method as provided by Article 4.13 of the Agreement and Schedule VIII of the USMCA Rules of Origin Uniform Regulations, the customs administration shall, in writing, provide the importer, exporter, or producer, with a minimum of 30 days to record its costs in accordance with Article 4.13 of Agreement and Schedule VIII of the USMCA Rules of Origin Uniform Regulations.
4. For the purposes of Article 5.8 of the Agreement and these Uniform Regulations, "records" include books as referenced in the USMCA Rules of Origin Uniform Regulations.

### **Origin Verification**

1. For the purposes of Article 5.9(6) of the Agreement, the importing Party shall inform the importer, only for the purposes of the importer's knowledge, of the initiation of the verification.
2. Article 5.9(6) of the Agreement shall not be construed to prevent the importing Party from exercising its authority to perform a verification under Article 5.9 of the Agreement or from taking any other authorized action with the importer in accordance with its law.
3. Each Party shall identify to the other Parties, the office to which the notice shall be sent under Article 5.9(9)(a) of the Agreement.
4. For the purposes of Article 5.9(16) of the Agreement, "those persons" means the exporter, producer or importer who is subject to the verification and provided information directly to the importing Party.
5. For the purposes of conducting a verification under Article 5.9 of the Agreement, it is sufficient for a Party to rely on the contact information of a certifier, exporter, producer, or importer provided in a certification of origin.

6. For the purposes of Article 5.9(18) of the Agreement, “any means that can produce any confirmation of receipt” include,

- (a) electronic mail;
- (b) international courier services;
- (c) certified or registered mail services; or
- (d) electronic message sent within the Party’s electronic system.

7. Nothing in this Article shall limit any right provided in accordance with Chapter 5 (Origin Procedures) of the Agreement to the exporter or producer of a good in the territory of a Party by virtue of the fact that such exporter or producer is also the importer of the good in the territory of the Party in which preferential tariff treatment is claimed.

8. For the purposes of Article 5.9(14) of the Agreement, where the importer is not the certifier, the importing Party shall provide the importer with the written determination issued to the exporter or producer, that complies with Articles 5.12 and 7.22 of the Agreement to ensure the protection of trader information.

9. For the purposes of Article 5.9(15) of the Agreement, for greater certainty, the 120 days includes information that may be required regarding the materials used in the production of a good or any assistance requested under Article 5.9(8) of the Agreement.

10. Where the customs administration, in conducting an origin verification of a good imported into their territory under Article 5.9 of the Agreement, conducts an origin verification of a material that is used in the production of the good, the origin verification of that material is expected to be conducted in accordance with the procedures set out in:

- a) Article 5.9(1), (5), (7 through 11), (13), and (18) of the Agreement; and
- b) paragraphs 3, 6, 13, 14, and 15 of this Section.

11. The customs administration, in conducting an origin verification of a material that is used in the production of a good pursuant to paragraph 10 of this Section, may consider the material to be non-originating in determining whether the good is an originating good if the producer or supplier of that material does not allow the customs administrations access to information required to make a determination of whether the material is an originating material by the following or other means:

- a) denial of access to its records;
- b) failure to respond to a verification questionnaire or letter; or
- c) refusal to consent to a verification visit within 30 days of receipt of notification under Article 5.9(7)(d) of the Agreement, as made applicable by paragraph 10 of this Section.

12. The Parties do not intend to consider a material that is used in the production of a good to be a non-originating material solely on the basis of a postponement of a verification visit under Article 5.9 (10) or (11) of the Agreement, as made applicable by paragraph 10(a) of this Section.

13. Each Party shall, through its customs administration when conducting an origin verification to which Generally Accepted Accounting Principles or otherwise accepted inventory management method may be relevant, apply and accept the Generally Accepted Accounting Principles as provided by Article 4.13 of the Agreement or otherwise accepted inventory management method as provided by Schedules VII and VIII of the USMCA Rules of Origin Uniform Regulations.

14. For the purposes of Schedule IV 2(2)(d) (Unacceptable Transaction Value) and Schedule VI 2(3)(d) (Value of Materials) of the USMCA Rules of Origin Uniform Regulations, in determining whether the transaction value of the good or material is acceptable where the producer and the buyer or the producer and the seller are related persons, as the case may be, the customs administration shall apply the relevant provisions of the Customs Valuation Agreement.

15. Where a customs administration uses information other than that supplied by or on behalf of the producer of the material for the purposes of determining the value of a material under Schedule VI 10 (Value of Materials) of the USMCA Rules of Origin Uniform Regulations, the customs administration shall communicate to the producer, if that producer so requests, the source of such information, the data used and the calculations based upon such data, subject to the confidentiality provisions contained in Articles 5.12 and 7.22 of the Agreement.

16. With respect to passenger vehicles, light trucks, heavy trucks, other vehicles, and parts used in the production of such vehicles, for the period from July 1, 2020 to December 31, 2020, additional time will be provided to producers, exporters, and importers of these goods to respond to requests seeking information, including documents in support of a certification of origin made under Article 5.2 (Claims for Preferential Tariff Treatment). This will include permitting flexibility with respect to the timing necessary to secure such documentation during this period.

#### **Advance Rulings Relating to Origin**

For the purposes of Articles 5.14(1) and 7.5(4)(c) of the Agreement, the customs administration of a Party is expected to issue an advance ruling to an exporter or a producer in the territory of another Party, with respect to a material that is used in the production of a good.

#### **Minimum Data Elements**

Where a certification of origin is completed based on Section 3(7) and Schedule II of the USMCA Rules of Origin Uniform Regulations, the certifier shall indicate "Schedule II of the USMCA Rules of Origin Uniform Regulations" within the certification of origin of Annex 5-A (Minimum Data Elements) of the Agreement.

### **CHAPTER 6 TEXTILE AND APPAREL GOODS**

#### **Verification of Textile and Apparel Goods**

1. For the purposes of Article 6.6(7)(d) of the Agreement the importing Party shall, at the time of the request for permission from the exporter or producer or person having the capacity to consent to a site visit, inform that person of
  - (a) the legal authority for the visit;
  - (b) the specific purpose of the visit; and
  - (c) the names and titles of the officials performing the visit.
2. If the importing Party conducts a site visit under Article 6.6 of the Agreement and intends to deny preferential tariff treatment to a textile or apparel good under Article 6.6(9) of the Agreement, it shall provide the preliminary results of the verification in writing.
3. For the purposes of Article 6.6(9) of the Agreement, “those persons” means the exporter, producer or importer who was the subject of the verification and provided information during the verification directly to the importing Party.

## **CHAPTER 7**

### **CUSTOMS ADMINISTRATION AND TRADE FACILITATION**

#### **Advance Rulings**

1. For the purposes of Article 7.5(15) of the Agreement, each Party shall update its website quarterly to display the advance rulings it has issued.
2. For the purposes of Articles 5.14 and 7.5 of the Agreement and these Uniform Regulations, an application to the customs administration of a Party for an advance ruling shall be completed in the language of that Party as set out in Annex 1 of these Uniform Regulations.
3. For the purposes of Article 7.5(6) of the Agreement, the customs administration to which the application is made shall issue an advance ruling no later than 120 days after it has obtained all necessary information under 7.5(6)(c) of the Agreement, including responses to requests for supplemental information or samples as provided in 7.5(6)(a) of the Agreement.
4. For the purposes of Article 7.5(6)(a) of the Agreement, where the customs administration of a Party determines that an application for an advance ruling is incomplete, it may decline to further process the application provided that:
  - (a) it has notified the applicant of the supplemental information required and of the period, which shall not be less than 30 days, within which the applicant must provide the information; and
  - (b) the applicant has failed to provide the information within the period specified.
5. Nothing in paragraph 4 of this Section shall be construed so as to prevent a person from reapplying for an advance ruling.

## **Review and Appeal of Customs Determinations**

Where an advance ruling is issued under Articles 5.14 or 7.5 of the Agreement or the Advance Rulings Relating to Origin Section a modification or revocation of the advance ruling shall be subject to review and appeal under Article 5.15 or 7.15 of the Agreement.

### **General Dispositions**

For the purposes of Chapter 5 of the Agreement and these Uniform Regulations, any reference to "materials that are used in the production of the good" or "that are used in the production of a material that is used in the production of the good" shall include materials that are incorporated into a good or material as defined in the USMCA Rules of Origin Uniform Regulations.

### **Final Dispositions**

1. These Uniform Regulations shall apply on the date of the entry into force of the Agreement.
2. For the purposes of these Uniform Regulations, the term 'Party' or 'Parties' as used herein refers to the 'Party' or 'Parties' of the Agreement between the United States of America, the United Mexican States, and Canada.

### **Annex 1: Language of a Party**

For the purposes of these Uniform Regulations the language of a Party shall be, in the case of:

- (a) Canada, English or French;
- (b) Mexico, Spanish; and
- (c) the United States, English.

### **Annex 2: Country – Specific Definition of "Series of Importations"**

For the purposes of Article 5.5 of the Agreement, "series of importations" means, in the case of:

- (a) Canada, two or more importations of a good accounted for separately but covered by one commercial invoice issued by the seller of the good to the purchaser of the good;
- (b) Mexico, two or more customs entries covering a good arriving the same day or released the same day, and consigned to, or imported by any person, but covered by one commercial invoice; and
- (c) the United States, two or more customs entries covering a good arriving the same day from the same exporter and consigned to the same person.