



Overview

This fact sheet highlights provisions from the new United States-Mexico-Canada Agreement (USMCA) related to customs and trade facilitation and any changes from the former North American Free Trade Agreement (NAFTA).

First, the USMCA’s Post-Clearance Audit provision requires the party to adapt post-clearance audit to ensure compliance with its customs laws, and to expedite the release of goods.

Furthermore, the USMCA’s Customs Brokers provision permits importers to file customs documentation without using a licensed customs broker, including through electronic customs platforms, and prohibits Parties from limiting the number of ports at which brokers can operate.

In addition, USMCA’s Authorized Economic Operator provision requires each Party to maintain trade facilitation partnership programs for operators who meet specific security criteria. This cooperation currently exists among Canada's Partners in Protection, United States' Customs Trade Partnership against Terrorism programs, and Mexico's Operadores Económicos Autorizados.

USMCA also includes provisions on efficient border inspection procedures as well as regional and bilateral cooperation on enforcement.

References

- **USMCA**
 - Article 7.13
 - Article 7.14
 - Article 7.15
 - Article 7.21
 - Article 7.25
- **NAFTA**
 - Article 512

Significant Changes in USMCA

Provision	USMCA	NAFTA
Post-Clearance Audit	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • This provision requires the party to adapt post clearance audit to ensure compliance with its customs laws and to expedite the release of goods. 	Not specified.
Authorized Economic Operators	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • This provision calls for harmonization of Authorized Economic Operator programs, giving pre-authorized businesses preferred customs treatment, including reduced frequency of examination. 	Not specified.
Customs Brokers	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • This provision allows for the self-filing of a customs declaration and other import or 	Not specified.



Provision	USMCA	NAFTA
	<p>transit documentation without the services of a customs broker. Each Party shall ensure that access to the electronic systems is available for self-filers. This provision prohibits limits to the number of ports or locations at which a customs broker may operate. Each Parties' qualifications and requirements for customs brokers must be transparent and objective.</p>	
<p>Border Inspections</p>	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Parties shall coordinate to carry out examinations expeditiously. Furthermore, as appropriate, the Parties shall coordinate to develop procedures or facilities, at adjacent ports of entry, for the efficient movement of goods. 	<p>Not specified.</p>
<p>Regional and Bilateral Cooperation on Enforcement</p>	<p>Change in USMCA.</p> <ul style="list-style-type: none"> • Only a domestic importer, or an exporter or producer in one of the other two countries, can request advice or information. • Must respond timely if it meets the requirements of the drawback or duty deferral program. 	<ul style="list-style-type: none"> • The Parties shall cooperate in the enforcement of their respective customs-related laws or regulations implementing this Agreement and exchange information when practicable

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Post-Clearance Audit	<ol style="list-style-type: none"> 1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audits to ensure compliance with its customs and related laws and regulations. 2. Each Party shall conduct post-clearance audits in a risk-based manner. 3. Each Party shall conduct post-clearance audits in a transparent manner. If an audit is conducted and conclusive results have been achieved, the Party shall, without delay, notify the person whose records are audited of the audit results, the basis of the results, and the audited person's rights and obligations. 4. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative, quasi-judicial, or judicial proceedings. 5. Each Party shall, whenever practicable, use the result of post-clearance audits in applying risk management. 6. Each Party shall conduct a post-clearance audit in a manner that informs the trader with respect to laws, regulations, and procedures and promotes future compliance. 7. Each Party shall provide in its laws or regulations a fixed and finite period with respect to record-keeping obligations. <p><i>(Reference: USMCA Article 7.13)</i></p>	Not specified.
Authorized Economic Operator	<ol style="list-style-type: none"> 1. Each Party shall maintain a trade facilitation partnership program for operators who meet specified security criteria, hereinafter, referred to as Authorized Economic Operator (AEO) programs, in accordance with the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization. 2. The Parties shall endeavor to cooperate by: <ol style="list-style-type: none"> (a) exchanging experiences on the operation of and improvements to their respective AEO programs, seeking to adopt, if appropriate, best practices; 	Not specified.

Provision	USMCA	NAFTA
	<p>(b) exchanging information with each other on the operators authorized by each program, in accordance with each Party's law and established processes; and</p> <p>(c) collaborating in the identification and implementation of trade facilitation benefits for operators authorized by the other Parties.</p> <p><i>(Reference: USMCA Article 7.14)</i></p>	
<p>Customs Brokers</p>	<ol style="list-style-type: none"> 1. Each Party shall allow an importer and any other person it deems appropriate, in accordance with its laws and regulations, to self-file a customs declaration and other import or transit documentation without the services of a customs broker. For the purposes of electronic filing, self-filing shall include direct access or access through a service provider, to electronic systems for filing and transmitting customs declarations and other import or transit documentation. Each Party shall ensure that access to the electronic systems is available for self-filers on a nondiscriminatory basis relative to other categories of users. 2. If a Party establishes requirements for qualifications, licensing, or registration to be a customs broker or to provide customs broker services, the Party shall ensure that the requirements are transparent, based on objective criteria related to providing customs broker services, promoting integrity and professionalism among customs brokers, and are administered uniformly in its territory. 3. No Party shall impose arbitrary limits to the number of ports or locations at which a customs broker may operate. A Party shall allow a licensed customs broker to electronically submit a customs declaration and import documentation to the electronic systems referred to in paragraph 1, at any port at which it is licensed to operate in accordance with the preceding sentence. <p><i>(Reference: USMCA Article 7.21)</i></p>	<p>Not specified.</p>

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Border Inspections	<ol style="list-style-type: none"> 1. The Parties shall cooperate with each other, as appropriate, with a view to facilitating trade through the promotion of efficient and effective processing of imports and exports through their ports of entry. 2. Each Party shall ensure that its customs administration and other relevant agencies that examine goods, conveyances, or instruments of international traffic, carry out examinations with appropriate coordination and, to the extent practicable, simultaneously within a single location, with a view to releasing goods and allowing conveyances and instruments of international traffic to enter its territory in a timely manner and immediately after the examinations have been completed, provided that all regulatory requirements have been met. 3. Pursuant to paragraphs 1 and 2, each Party is encouraged to develop and implement standard operating procedures amongst its customs administration and relevant agencies that examine goods, conveyances, or instruments of international traffic. If practicable, each Party is encouraged to adapt their border facilities to carry out the examinations specified in paragraph 2. 4. As appropriate, the Parties shall coordinate to develop procedures or facilities adjacent to ports of entry for the efficient movement of goods the processing of which requires specific accommodations with respect to facilities or examination. 5. Nothing in this Article requires a Party to provide services for the examination and release of goods for all types of goods at all ports of entry within its territory. <p><i>(Reference: USMCA Article 7.25)</i></p>	<p>Not specified.</p>
Regional and Bilateral Cooperation on Enforcement	<ol style="list-style-type: none"> 1. The Parties agree to strengthen and expand their customs and trade enforcement efforts and cooperation as set out in this Section. In these efforts, the Parties may use any applicable mechanism, including bilateral cooperation mechanisms. 	<ol style="list-style-type: none"> 1. Each Party shall notify the other Parties of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application:

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	<p>2. Each Party shall, in accordance with its laws and regulations, cooperate with other Parties for the purposes of enforcing or assisting in the enforcement of their respective measures concerning customs offenses in the trade in goods between the Parties, including ensuring the accuracy of claims for preferential tariff treatment under this Agreement.</p> <p>3. With a view to facilitating the effective operation of this Agreement, each Party shall:</p> <ul style="list-style-type: none"> (a) encourage cooperation with the other Parties regarding customs issues that affect goods traded between the Parties; and (b) endeavor to provide the other Parties with advance notice of any significant administrative change, modification of a law or regulation, or other measure related to its laws or regulations that governs importations, exportations, or transit procedures that is likely to substantially affect the operation of this Agreement or likely to affect the effective implementation and enforcement of the customs and trade laws and regulations of a Party. <p>4. Each Party shall take appropriate measures, such as legislative, administrative, or judicial actions for enforcement of its laws, regulations, and procedures related to customs offenses, to enhance coordination between its customs administration and other relevant agencies and for cooperation with another Party.</p> <p>5. The measures under paragraph 4 may include:</p> <ul style="list-style-type: none"> (a) specific measures, such as enforcement actions to detect, prevent, or address customs offenses, especially on identified customs priorities, taking into account trade data, including patterns of imports, exports, or transit goods to identify potential or real sources of these offenses; (b) adopting or maintaining penalties aimed at deterring or penalizing customs offenses; and 	<ul style="list-style-type: none"> (a) a determination of origin issued as the result of a verification conducted pursuant to Article 506(1); (b) a determination of origin that the Party is aware is contrary to <ul style="list-style-type: none"> (i) a ruling issued by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin, or (ii) consistent treatment given by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin; (c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin, country of origin marking requirements or determinations as to whether a good qualifies as a good of a Party under the Marking Rules; and (d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article 509. <p>2. The Parties shall cooperate:</p> <ul style="list-style-type: none"> (a) in the enforcement of their respective customs-related laws or regulations implementing this Agreement, and under any customs mutual assistance agreements or other customs related agreement to which they are party;

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	<p>(c) providing a Party's government officials with the legal authority to meet its enforcement obligations under this Agreement.</p> <p>6. The Parties shall, subject to their respective laws, regulations and procedures, cooperate by sharing information, including exchanging historical data and if practicable and appropriate, data in real time with respect to imports, exports, and transit of goods to identify potential or real sources of customs offenses, especially on priority initiatives or industry sectors. Each Party shall identify and maintain the capability for the secure exchange of customs data with another Party.</p> <p>7. Each Party shall, whenever practicable, and subject to its laws and regulations, provide another Party with information that has come to its attention that it believes would assist the receiving Party in detecting, preventing, or addressing potential or real customs offenses in particular those related to unlawful activities, including duty evasion, smuggling, and similar infractions. Such information may include specific data on any person suspected to be involved in unlawful activity, the mode of transportation, other relevant information, and the results of enforcement actions, application of penalties, or unusual trade patterns, both collected directly by the providing Party and received from other sources.</p> <p>8. The Parties shall endeavor to cooperate, subject to their laws, regulations, and procedures, bilaterally or trilaterally, as appropriate, by developing customs enforcement initiatives, which may include the creation of task forces, joint or coordinated data analysis, and identification of special monitoring measures and other actions, to prevent, deter, and address customs offenses, particularly with respect to priorities of mutual concern.</p> <p><i>(Reference: USMCA Article 7.15)</i></p>	<p>(b) for purposes of the detection and prevention of unlawful transshipments of textile and apparel goods of a non-Party, in the enforcement of prohibitions or quantitative restrictions, including the verification by a Party, in accordance with the procedures set out in this Chapter, of the capacity for production of goods by an exporter or a producer in the territory of another Party, provided that the customs administration of the Party proposing to conduct the verification, prior to conducting the verification,</p> <ul style="list-style-type: none"> (i) obtains the consent of the Party in whose territory the verification is to occur, and (ii) provides notification to the exporter or producer whose premises are to be visited, except that procedures for notifying the exporter or producer whose premises are to be visited shall be in accordance with such other procedures as the Parties may agree; <p>(c) to the extent practicable and for purposes of facilitating the flow of trade between them, in such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade, the standardization of data elements, the acceptance of an international data syntax and the exchange of information; and</p> <p>(d) to the extent practicable, in the storage and transmission of customs-related documentation.</p> <p><i>(Reference: NAFTA Article 512)</i></p>