

ALERT

USITC Announces Comment and Hearing Schedule for USMCA Automotive Rules of Origin Report

April 26, 2024

The U.S. International Trade Commission (USITC) is inviting interested parties to comment on the US-Mexico-Canada Agreement's (USMCA) automotive rules of origin. Parties will have until September 24, 2024 to request an appearance at the October 8, 2024 hearing, as well as an opportunity to submit prehearing and post hearing briefs. The USMCA includes special rules of origin for automotive goods. These rules include North American content requirements for vehicles and "core parts" (e.g., engines, chassis, advanced batteries), North American steel and aluminum content thresholds, and certain labor requirements. Satisfying these rules will govern whether an automotive good is eligible for preferential tariff treatment. As a result, the scope and application of these origin rules significantly impact the price of automotive goods imported from Canada or Mexico.

U.S. Government officials have exercised heightened scrutiny of the USMCA's rules of origin in recent years. In 2023, the USMCA panel ruled in favor of a lower regional content requirement, which U.S. Trade Representative Katherine Tai described as "disappointing." The House Select Committee on the Chinese Communist Party has expressed concern that the USMCA rules of origin will allow Chinese automakers to "gain[] a backdoor to the U.S. market" through Mexico. In a recent trip to Mexico, Treasury Secretary Janet Yellen emphasized to the President of Mexico the importance of adhering to USMCA origin rules to prevent non-USMCA countries from benefiting from the Agreement.

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These concerns will be at the forefront of the USITC's investigation, and interested parties have the opportunity to provide direct input to the U.S. Government. As part of the USITC's biennial review and report to Congress, the USITC is required to obtain information from producers of automotive goods, labor organizations, and other interested parties on these issues. The USITC's review, hearing, and report will cover the following areas of concern:

- The economic impact of the USMCA automotive rules of origin on U.S. gross domestic product; U.S. exports and imports; U.S. aggregate employment and employment opportunities; production, investment, use of productive facilities, and profit levels in the U.S. automotive industries and other pertinent industries; wages and employment of workers in the U.S. automotive sector; and the interests of U.S. consumers.
- The operation of the rules of origin and their effects on the competitiveness of the United States with respect to production and trade in automotive goods, taking into account developments in technology, production processes, or other related matters.
- Whether the rules of origin are relevant in light of technological changes in the United States.
- Any other matters that the Commission considers relevant to the economic impact of the rules of origin, including prices, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production in the United States.

The USITC will transmit its report to the President, House Ways and Means, and Senate Finance Committee on July 1, 2025. Interested parties should also be aware of the following key deadlines in the USITC's investigation:

- **September 24, 2024:** Deadline for filing requests to appear at the public hearing.
- **September 26, 2024:** Deadline for filing prehearing briefs and statements.
- **October 1, 2024:** Deadline for filing electronic copies of oral hearing statements (testimony).
- **October 8, 2024:** Public hearing at the USITC.
- **October 16, 2024:** Deadline for filing post hearing briefs.
- **November 18, 2024:** Deadline for filing all other written submissions.

The USITC's 2023 Report found that the effect of the recently implemented rules of origin was not fully apparent. USMCA has now been in force for nearly four years, but certain regional value content requirements and other automotive-specific provisions will not be fully implemented until 2027. USMCA is set to terminate 16 years after the date of its entry into force (on July 1, 2036), unless the member states confirm that they wish to continue the agreement for another 16-year term, which will happen at a "joint review" comprised of Minister-level government officials from each USMCA member. The first joint review of USMCA will take place on July 1, 2026, and the USITC's findings will certainly influence the review. Producers and suppliers should begin analyzing how USMCA's automotive goods requirements have impacted their operations and make sure their voice is heard in the USITC's investigation.

Wiley's International Trade and Strategic Competition & Supply Chain practice groups have extensive experience with developing, drafting, implementing, and helping clients comply with USMCA requirements, including the country of origin rules, as well as USITC investigations. Should you have any questions about this process, the USMCA, or the USITC, please contact the attorneys listed on this alert.