



USMCA

UNITED STATES – MEXICO – CANADA CENTER

United States – Mexico – Canada Agreement (USMCA)

Miami International Trade Week

May 17, 2022



What is USMCA?



The **United States-Mexico-Canada Agreement (USMCA)** is a trade agreement between the named partner countries that replaces the NAFTA, and is the most utilized trade agreement by the United States with two of its largest trading partners

- USMCA is referred to differently in Canada and Mexico
 - CA Title - “Canada-United States-Mexico Agreement (CUSMA)”
 - MX Title - “Tratado entre México, Estados Unidos y Canadá (T-MEC)”
- Modernizes **the 25-year old NAFTA trilateral trade pact for the 21st century**:
 - ✓ Reflects **developments in technology and trade practices**; and
 - ✓ Adding **new criteria** to certain commodities, including automotive goods
- **NAFTA’s tariff structure** and **zero-tariffs policy** on most manufacturing and agricultural goods remain under USMCA
- **USMCA entered into force (EIF) on** **July 1, 2020**



More key USMCA provisions –

A-D

Preference Criteria A-D are identical between NAFTA and USMCA – within Criterion B, the product-specific RoO employ the same tariff shift and Regional Value Content (RVC) methodology. There is an additional preference criterion for **Schedule II goods** (more on next slide)

10%

De Minimis (Non-Textiles) – allows goods to qualify as originating if it contains **no more than 10% (increase from 7%)** of non-originating materials, including those subject to RVC requirements



Transit and Transshipment (Imported Directly) – retains status if transported without passing through non-Party **OR** (1) remains under customs control **AND** (2) does not undergo operation other than those necessary to **preserve condition or transport good**



Treatment of Sets – **This is new to USMCA** – a set classified pursuant to GRI 3 is originating if (1) **each good in set** is originating; **OR** (2) total value of non-originating goods **does not exceed 10% of value of set**; and both the set and goods meet **all other requirements**

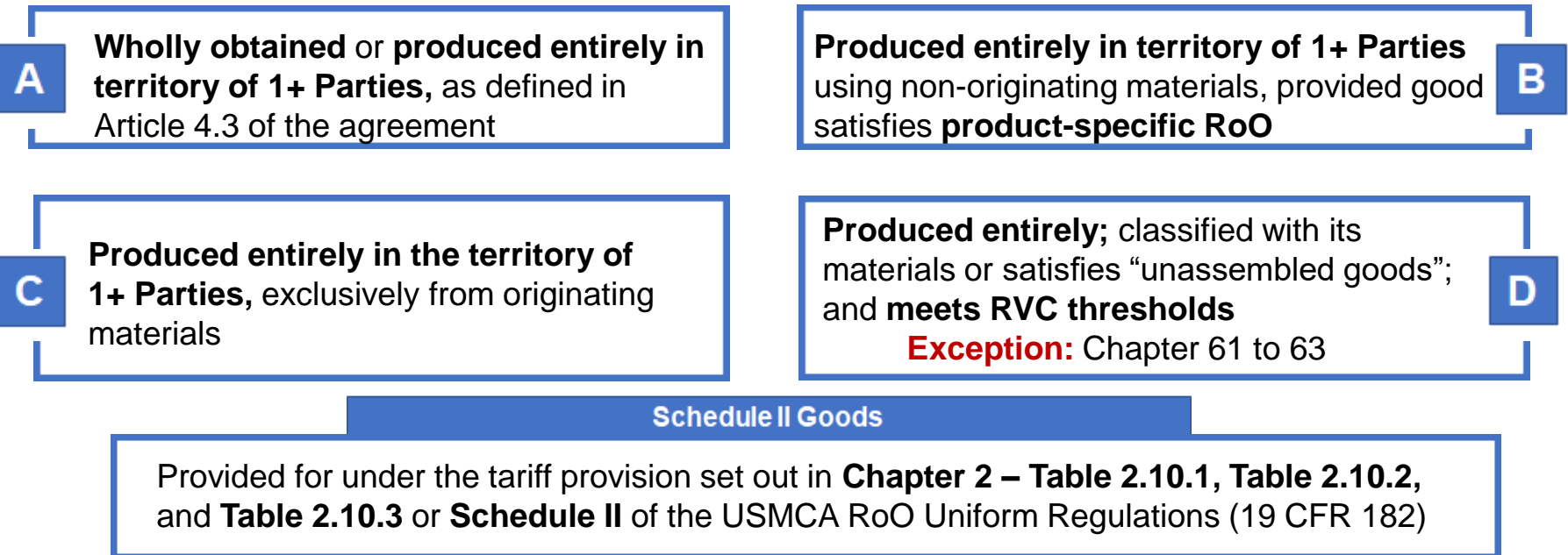
USMCA Preference Criteria



An originating good is one that meets the RoO guidelines set forth in **GN 11** and **all other requirements of the agreement**

The **HTSUS was amended** to include GN 11, which includes both general and product-specific RoO, definitions, and related provisions for determining origination

NAFTA featured **six (6) criteria** while the USMCA has **five (5)** – in general, a good is originating when **one** of the following criteria applies:





Who can fill out a Certification of Origin (C/O)?

- ✓ **Importer**
 - ✓ **Exporter**
 - ✓ **Producer**
-

- No specific form required
- A template is available at [cbp.gov](https://www.cbp.gov)
- Must include the nine (9) data elements, including certifying statement, found in 19 CFR 182.12
- Can be specific to a single shipment or cover a blanket period up to one year
- Not required for shipments less than \$2500



Does my product qualify?

- Reach out to a licensed customs broker
 - Do an origination analysis using General Note 11
 - Submit a binding ruling request to CBP's Regulations and Rulings
 - Search [rulings.cbp.gov](https://www.rulings.cbp.gov) to see if a similar ruling has already been issued
-

What if I don't see a Tariff Change Rule (TCR) for an HTSUS 2021 classification?

- Check out CSMS 17-000270
 - When TCRs aren't yet updated, refer to most recent HTSUS that has a corresponding TCR
-

I'm a US producer and someone asked me for a C/O. Do I have to provide it?

- No, but it's easy to make one – see the template on previous page!

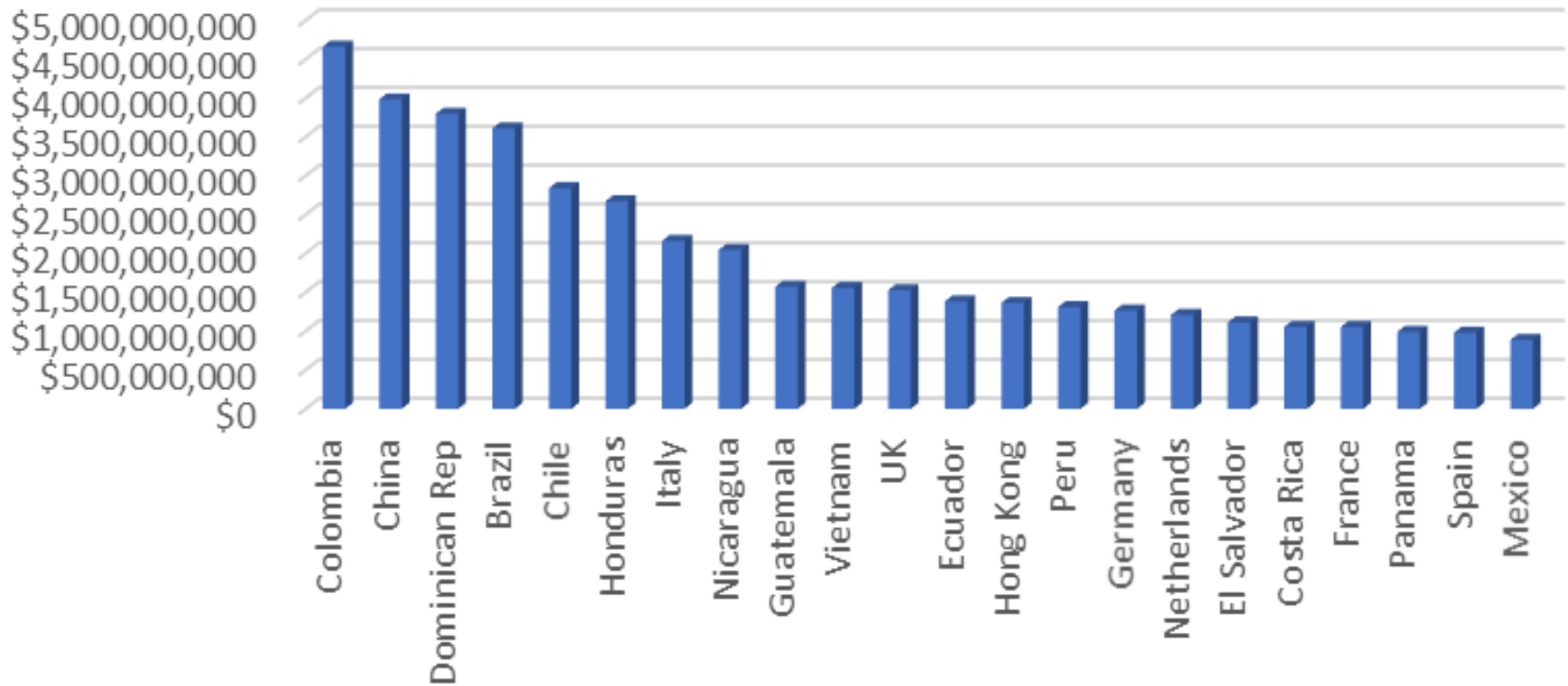
USMCA Statistics



Miami Field Office Importations



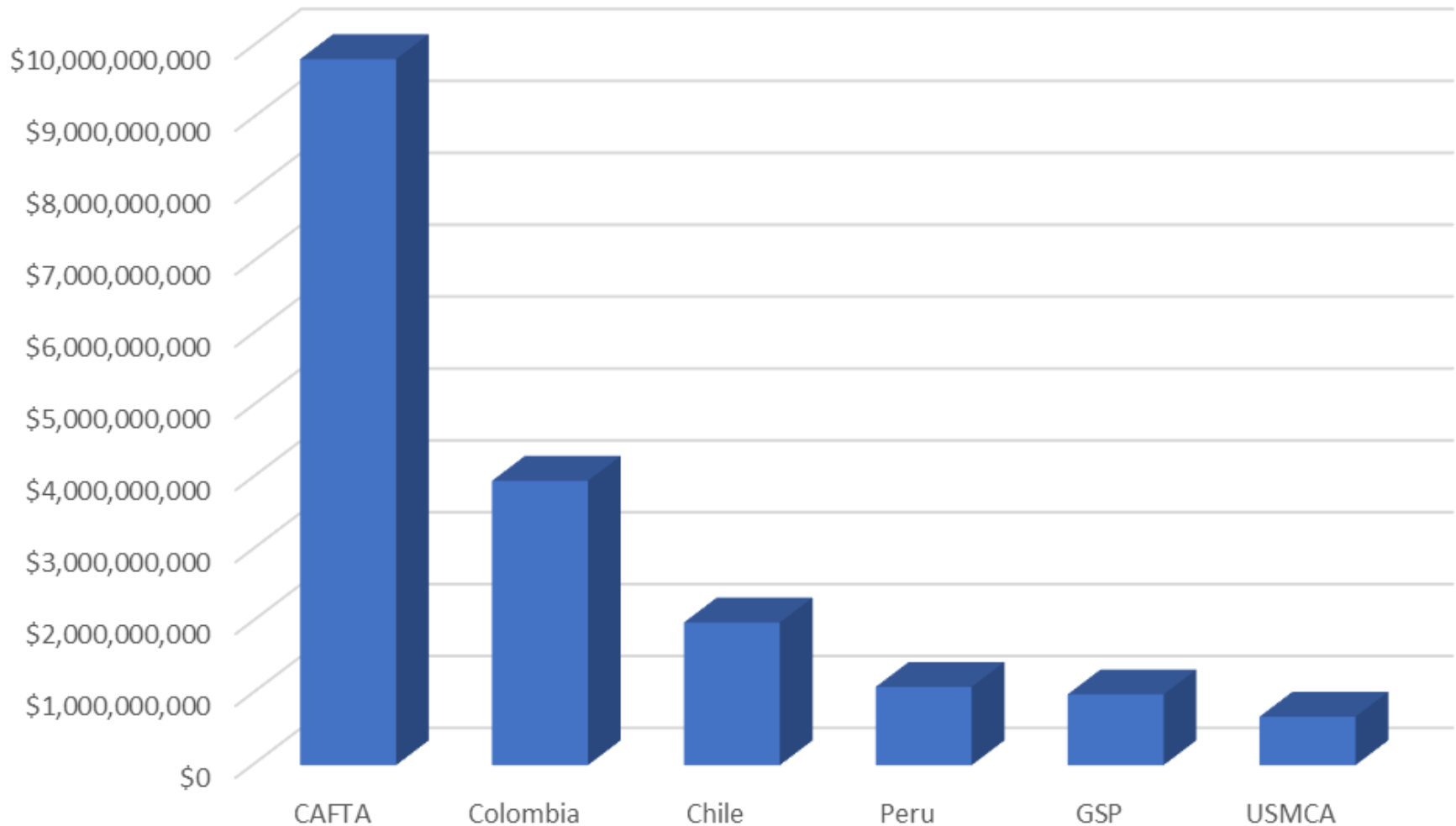
FY21 Miami Field Office - Importations by Country of Export



USMCA and the Miami Field Office



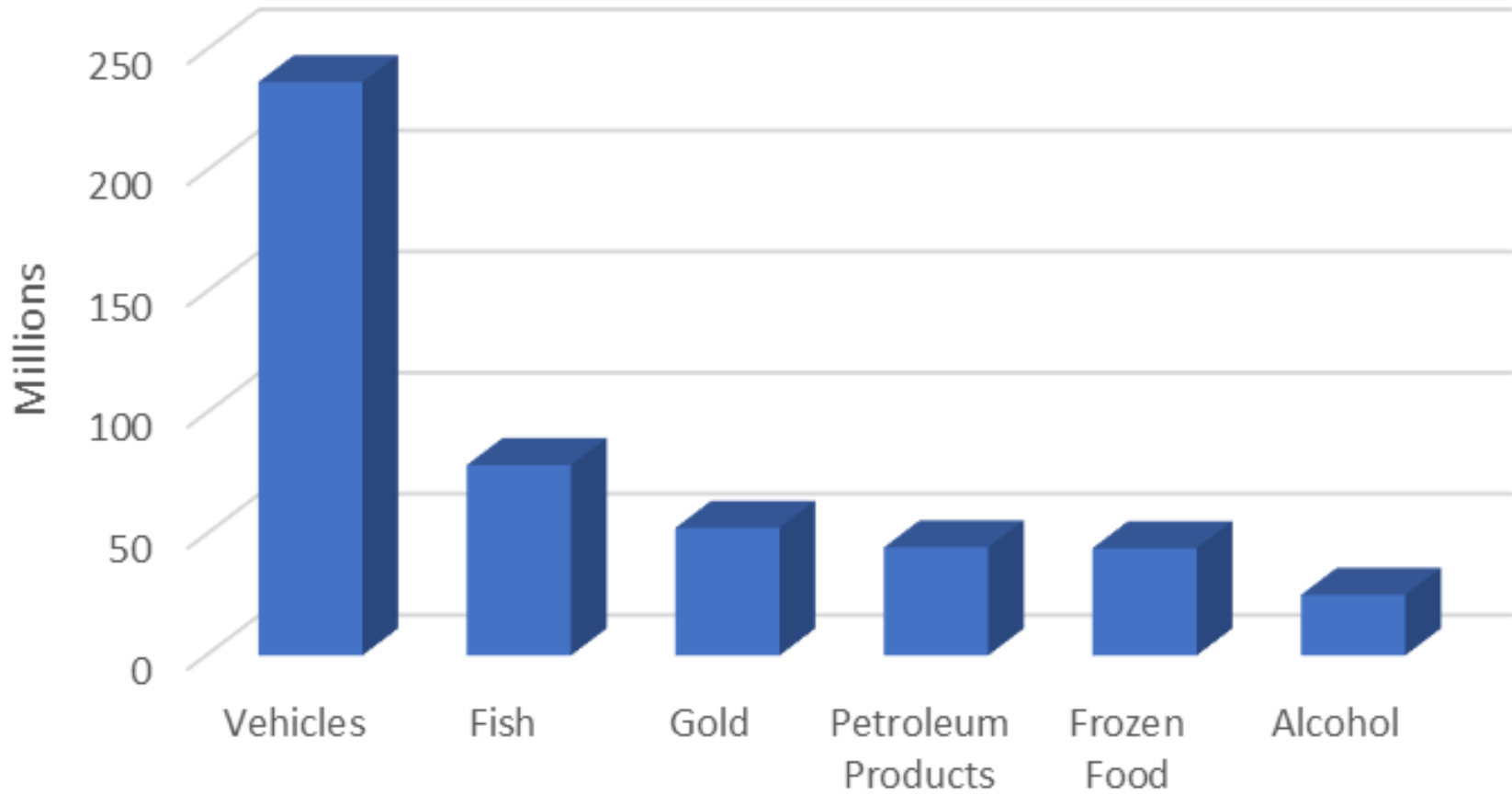
Miami Field Office Trade Agreement Usage FY21



USMCA and the Miami Field Office



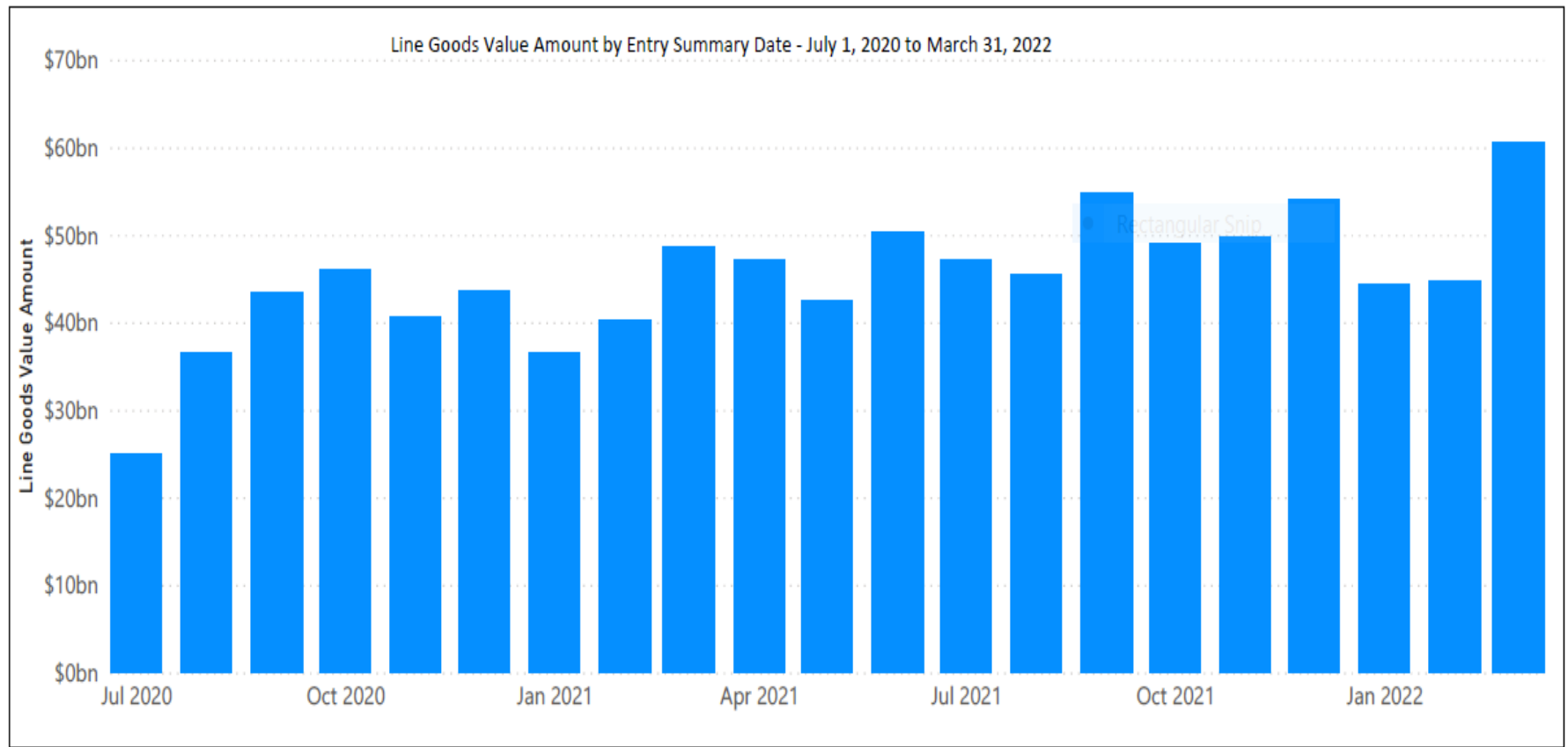
Top Miami Field Office USMCA Claims FY21



USMCA Preferential Treatment Claims Stats



From 7/1/20 – 3/31/22, \$951B in USMCA preferential treatment claims have been entered, including \$259B with the Automotive-Aerospace Center, \$126B with the Agriculture and Prepared Products Center, and \$118B with the Electronics Center.



Figures represent data July 2020 – March 2022

Overview of USMCA Automobile Provisions



USMCA Automotive Goods Overview



The USMCA contains special provisions for **automotive goods**

- **Increased Regional Value Content (RVC) (62.5% → 75%)**
- **Labor Value Content (LVC) Requirement** – importers must certify that a certain percentage of the automobile’s content (by value) is sourced from manufacturing facilities in the U.S., MX, and CA that **pay at least \$16 USD**
- **Steel and Aluminum Requirements** – importers must certify that at least 70% of the vehicle producer’s overall annual purchases of steel *and* aluminum by value are sourced from North America



CBP is working closely with our government partners in CA and MX, and the trade community to continue comprehensive implementation and enforcement of the USMCA

Regional Value Content for Autos



The increased Regional Value Content (RVC) percentages for autos are being phased in over a period of either **3 years** or **7 years** after EIF, depending on vehicle type

While the RVC for complete vehicles must use the **net cost method**, RVC calculations for certain specified parts can use either the **net cost method** or the **transaction value method**

Please see below for specific phased in requirements –

<i>Type</i>	<i>New RVC Requirement</i>	<i>Citation</i>
Passenger Vehicles (PV) & Light Trucks (LT)	75% by net cost over 3 years	GN 11(k)(iii)(A-I)
Heavy Trucks	70% by net cost over 7 years	GN 11(k)(iii)(J-M)
Other Specific Vehicles	62.5% by net cost immediately upon entry-into-force	GN 11(k)(ix)

Labor Value Content Overview



Labor Value Content (LVC) criteria for automotive goods was introduced in the USMCA

Under the USMCA LVC provisions, automotive goods only receive preferential tariff treatment if the vehicle producer certifies that a **certain percentage of the automobile's content (by value)** is sourced from manufacturing facilities in the United States, Mexico, and Canada, paying at least

\$16 per hour USD



The **U.S. Department of Labor – Wage and Hours Division** assesses the wage practices of manufacturing facilities and provides results of the review to CBP

This is the first time that a partner government agency has a **role in assessment claims for preferential treatment under a trade agreement**

Labor Value Content (LVC) Overview



The LVC criteria require vehicle producers to certify that a **certain percentage of the automobile's content (by value)** is sourced from manufacturing facilities in the USMCA Parties that pay at least **\$16 per hour USD**

Automotive goods are originating **only if** the vehicle producer certifies that its production meets the below LVC requirements:

Passenger Vehicle (PV)

30% → **40%**
July 1, 2020 → *By 2023*

Consisting of:

- ✓ high-wage material and manufacturing expenditures of:
 - **At least 15%** (Jul 2020 – Jun 30, 2021)
 - **At least 18%** (Jul 2021 – Jun 30, 2022)
 - **At least 21%** (Jul 2022 – Jun 30, 2023)
 - **At least 25%** (Jul 2023 – on)
- ✓ **No more than 10%** of high-wage technology expenditures
- ✓ **No more than 5%** of high-wage assembly expenditures

Light Truck or Heavy Truck

45%
July 1, 2020

Consisting of:

- ✓ **At least 30%** of high-wage material and manufacturing expenditures
- ✓ **No more than 10%** of high-wage technology expenditures
- ✓ **No more than 5%** of high-wage assembly expenditures

Steel and Aluminum Requirements



Passenger Vehicle (PV)



Light Truck (LT) or Heavy Truck

are originating if the producer's purchase of

1

Steel is

at least 70%

originating goods

and

2

Aluminum is

at least 70%

originating goods

A producer may calculate its purchases of steel and aluminum via certifications, with the certification applying to all vehicles produced and/or exported to the territory of one or more USMCA countries during the covered time period

USMCA Alternative Staging Regime (ASR)



The U.S. Trade Representative (USTR) developed an **alternative staging regime for automobiles** that permitted vehicle producers to apply for a **longer period of transition** for compliance



A producer was eligible if the producer intended to make a claim for preferential tariff treatment and the producer determines that it is **unable** to meet auto RoO requirements

**** Note: ASR petitions are no longer accepted**

- The longer period of transition allowed producers to **ensure** that **future production** would meet the rule of origin requirements
- Approved companies were posted on a **public list** and adhered to **different rules**, such as **lower threshold for benefits**
- Alternative staging regimes **did not replace any other RoO provisions** of general applicability for these goods to make a claim under USMCA

**** Note: Each USMCA country has its own separate ASR processes**

Relevant Resources

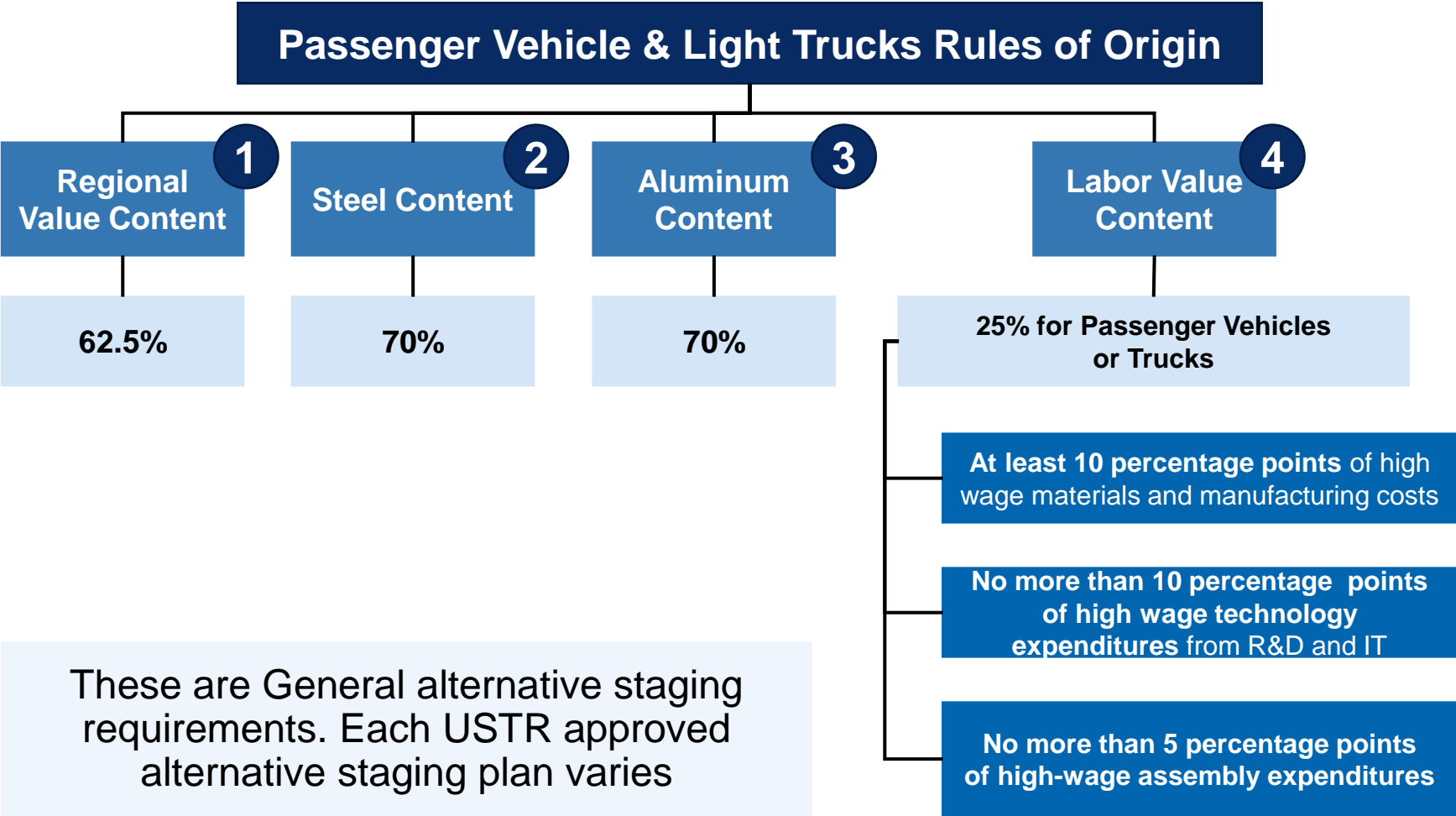
USMCA Automotive Appendix

USTR FRN 2020-08405 (April 21, 2020) on Alternative Staging Regime

ASR Requirements (cont.)



USMCA introduces **four (4)** new provisions related to automotive goods:



USMCA Automotive Requirements in Summary



USMCA Automotive Requirements feature the following:

RVC Threshold of **75%**

NO tracing list or “deemed originating”

Steel and Aluminum Purchasing Requirement (70%)

Labor Value Content (LVC) Requirements – Requires Collaboration with Dept. of Labor

Alternative Staging Option – Managed by USTR

Same Rules of Origin Application to New and Used Vehicles

USMCA Provisions:

- Labor
- Environmental
- Enforcement



USMCA Labor Provisions



The USMCA introduced various labor-related provisions to help grow the economy and support additional jobs here in the United States, particularly in the manufacturing sector.

USMCA Labor Provisions

Forced Labor Prohibition

The USMCA Parties agree to prohibit the importation of goods from U.S., CA, or MX that are produced using forced labor

Collective Bargaining

The USMCA Labor chapter includes commitments from CA and MX that provide for the recognition of collective bargaining rights at production facilities

Labor Rights Recognition

The USMCA Parties are required to adopt and maintain labor rights as recognized by the International Labor Organization

Enhanced Labor Enforceability

The USMCA Dispute Settlement chapter establishes a U.S. - MX Rapid Response Labor Mechanism, providing for enforcement of labor rights to ensure effective implementation of MX's labor reforms

- ✓ The USMCA requires the parties (U.S. / MX / CA) to prohibit the importation of goods sourced from forced labor and to coordinate on implementation / enforcement
- ✓ Contact the Forced Labor Division at ForcedLabor@cbp.dhs.gov for any forced labor-related questions

Rapid Response Labor Mechanism (RRM)



- This is a USMCA provision that addresses labor rights and requires Mexico to overhaul its System of Labor Justice
- Creates the first enforcement mechanism for labor provisions found within a free trade agreement



The USMCA protects workers' rights to freely associate

- Allows workers to directly make allegations of denials of rights
- United States' involvement led by Interagency Labor Committee for Monitoring and Enforcement (ILC)
- Applies to individual manufacturing facilities
- Applies to completed products as well as parts
- Gives the United States Trade Representative broad authority to ensure compliance via Customs actions



The USMCA environmental provisions help to protect the most vulnerable wildlife

USMCA Environmental Provisions



Sea Turtle: these marine animals are often threatened by the shrimping industry



Vaquita: illegally used gillnets pose great danger to the vaquita



Totoaba: is a large, rare fish found only in the Gulf of California, and their swim bladders (the organ that helps them float) is highly prized in China for soups and medicines



The USMCA introduced environmental provisions to promote best practices in environmental protection and enforcement

USMCA Environmental Provisions

Greater Environmental Protection

The environmental provisions of the USMCA are strengthened with the inclusion of a list of seven multilateral environmental agreements (MEAs) through Article 24.8

Environmental Procedural Matters

Obligates member states to ensure that interested parties can seek appropriate redress, including sanctions for violations of environmental legislation within their respective jurisdictions

Robust Environment Governance

Compliance with Chapter 24 obligations are monitored by an environmental committee established under the USMCA comprised of 11 agencies, including CBP

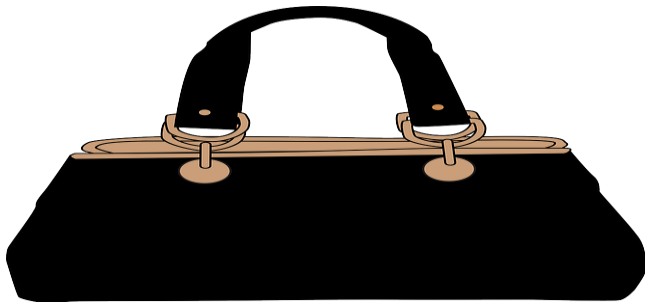
Enhanced Enforceability

Allows for customs verifications related to trade in illegally taken wild flora and fauna, including transshipment, fishing practices, and harvesting forest products



USMCA Enforcement Provisions

- The USMCA has provisions on Intellectual Property Rights (IPR), provisions to combat Antidumping/Countervailing Duties (AD/CVD) evasion, commitments to interdict transshipped IPR infringing goods, prohibiting the importation of forced labor produced goods, and requirements to prevent illegal taking of wild flora and fauna (i.e. timber).
- The IPR provision is responsible for the national coordination of CBP's efforts to address counterfeit goods from entering the United States as well as developing the agency's response to changing business shipping models, while providing the opportunity for business of all sizes to compete.
- The dangers from buying counterfeit and illicit goods pose industrial threats to the United States and is also associated with smuggling and other criminal activities that often fund criminal enterprises.
- The USMCA enforcement provision expands confidential trade data sharing; conduct joint analysis, investigations, and operations; allows CBP to perform facility verification visits to assess production capacity.



Recordkeeping Requirements



In general, the USMCA recordkeeping requirements **are the same as in NAFTA**

An importer must maintain records and documentation related to the following areas and render them available upon request for a period **no less than five (5) years from the date of importation of the good:**

Importation

(i.e. Entry Docs,
Certification of Origin)

Origin of Good

(i.e. Docs to
Support Origination)

Compliance

(Transit and
Transshipment)

Below are the **key changes from NAFTA:**



Recordkeeping documents can be maintained in **any format, including electronic**, provided that they can be readily available upon request



Requirements apply even if the importing Party **does not require a certification of origin** or if the requirement is **waived**

USMCA Center and Available Resources



What is the USMCA Center?



Overview

The USMCA Center was created to ensure a smooth transition from NAFTA with consistent and comprehensive guidance to our internal and external stakeholders. Launched in March 2020, the **USMCA Center** is the US Government (USG) lead for implementation and enforcement of the customs provisions of the USMCA.



- Housed in the **CBP Office of Trade (OT)** and includes SMEs from across CBP HQ and Centers of Excellence and Expertise
- Coordinates, tracks, and promotes CBP **implementation efforts**
- Supports the **policy-focused USMCA efforts** of CBP OT's Textiles and Trade Agreements Division (TTAD)

Guiding Responsibilities

Coordination

Ensure smooth implementation of USMCA by leading international, inter-agency, and inter-office coordination

Communication

Lead USMCA-related communication for all stakeholders across platforms, including training, informational briefings, compliance guidance, and online resources

Regulations and Policy

Track and support the development of all USMCA-related legal and regulatory documents, including uniform, interim, and domestic regulations, and interagency agreements

What is the USMCA Center?



USMCA Center

Trade Enforcement

- Developing innovative risk-based enforcement procedures for the USMCA in coordination with **CBP offices** and **other U.S. government agencies**
- Spearheading USMCA **trade modernization** activities
- Management of **Auto Certifications and Averaging Election Forms**
- Guidance and training to internal personnel

Regulatory

- Developing USMCA Policy
- Supporting regulatory activities with **CBP offices** and **other U.S. government agencies**
- **Interpreting USMCA Policy** for internal and external stakeholders

Trade Facilitation

- Coordinating engagement with **CBP, trade** and **international stakeholders**
- Developing **USMCA informational resources**
- Communicating with external stakeholders
- Management of the **USMCA Website**
- Management of the **USMCA Center Mailbox**



The USMCA Center continues to connect the trade community with updated information, resources, and tools to support the USMCA implementation and enforcement process

CBP resources are available on the **CBP.gov USMCA Webpage**.

- To access, go to: <https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA> (or search “USMCA” on CBP.gov)



Informational Briefings

USMCA overviews, including new and novel provisions, delivered via trade associations and industry groups



Written & Multimedia Materials

Compliance guidance, fact sheets, side-by-side comparisons of NAFTA and USMCA, Points of Contact, FAQ's, and other resources



Additional U.S. Government (USG) Resources

Links to USMCA text, Implementation Act, ITC Report, U.S. Government Points of Contact, and other resources



USMCA Foundational Documents

[U.S. – Mexico – Canada Agreement Text](#)

[USMCA Implementation Act \(Public Law No: 116-113\)](#)

[USMCA Implementing Instructions](#) and [Addendum](#)

USMCA Regulations

- [Uniform Regulations](#), mutually agreed upon with Mexico and Canada
- [Domestic Regulations](#) (19 CFR Part 182)

[HTSUS General Note 11](#)



Links to all these resources are available on the [USMCA webpage on CBP.gov](#)



Outreach

- The USMCA Center strives to accommodate additional informational briefings and engagements with trade stakeholders.
- Continual updates to the USMCA webpage on CBP.gov and promotion via all our resources, incl. social media.



Education

- CBP has established an **USMCA Education Program** to guide post-entry-into-force (EIF) engagement
- Those targeted to the trade industry include:



Additional Trade Industry Briefings (Upon Request)



Additional Written Materials (USMCA Fact Sheets, Enforcement Guidance)



Regulations

- The USMCA Center continues to inform the trade industry with the most up to date regulatory information.
- Continual regulatory updates to the USMCA webpage on CBP.gov along with the USMCA FAQs and Chatbot.
- Links to USMCA text and addendums to the regulations, Implementation Act, ITC Report, U.S. Government Points of Contact, and other resources

Questions?



Thank you!

