

If you missed Paul Courtney's CUSMA webinar, here are the highlights:

Canada-US-Mexico Agreement: What you need to know

Who is Paul Courtney?

Paul Courtney is the owner and President of Courtney Agencies – a Canadian-based licensed custom brokerage and international freight forwarder. Paul has more than 30 years' experience in the business – in fact, he “grew up” in it, assuming leadership of the family enterprise more than a decade ago.

He has been an active member of the industry associations that helped to shape many of the current systems. He is very active at the national board level of both CSCB (the Canadian Society of Customs Brokers) and CIFFA (the Canadian International Freight Forwarders Association). Paul and the whole team at Courtney Agencies are committed to keeping clients at the top of their game.

What does Courtney Agencies do?

Courtney Agencies is a licensed custom broker and international freight forwarder with deep Canadian roots. Courtney's suite of services include: Canadian Customs Brokers, Export to the U.S., International Freight Forwarding, Import/Export Ocean and Air, and a suite of logistics that include trade show logistics, and trade consulting services.

What is the history of the new Canada-US-Mexico Agreement?

Three parties originally signed the Canada-US-Mexico agreement: Canada, Mexico, and the United States. It was originally signed on November 30, 2018 -- it has taken a couple of years to get to implementation. Implementation was set to take place three months after the last country ratified. Canada was the last country to ratify.

What trade agreement does the new Canada-US-Mexico Agreement replace?

It fully replaces the North American Free Trade Agreement (NAFTA).



When did the new Canada-US-Mexico Agreement come into effect?

The new trade agreement came into effect July 1, 2020.

What is the new Canada-US-Mexico Agreement called?

It may be the first trade agreement in history to be known by a different name in each signing country.

- In Canada, it's called CUSMA, the Canada-US-Mexico Agreement.
- In the U.S., it's called USMCA, the US-Mexico-Canada Agreement.
- In Mexico it called the T-MEC.

The word “trade” is not actually in the agreement.

What could this mean to my business?

Goods that arrive after July 1, 2020 may be subject to duty if they have not been certified under the new trade agreement. NAFTA certificates were no longer valid after June 30.

What are the Rules of Origin?

The Rules of Origin are where the details are. They are the criteria for how you decide whether your goods qualify under the trade agreement.

Many of your goods which qualified under NAFTA’s Rules of Origin will probably still qualify under the new trade agreement. However, you can't presume that will be the case. You need to look at the Rule under NAFTA and compare it to the Rule of Origin under the new trade agreement. The details are important.

What are some of the differences?

Some goods require a higher regional value content, or they may require a more difficult tariff shift requirement.

The actual structure of the rules are very similar to NAFTA, but it was more about changing the actual tariff shift or the regional value for some of the product. It's really centered

around the end classification of your goods as well as the classifications of your parts and ingredients and making sure that the tariff shifts have occurred and where required a regional value content is met. For example, we have noticed that some products have a lower bar to qualify.

What are the product categories that may have been affected?

Pharmaceuticals, health care, cosmetics, chemicals, steel, automotive and textiles.

What are some specific product rules?

Automotive was one of the main motivating factors in renegotiating the trade agreement. Some of the new rules have a transition period. Qualifying vehicles must have 75% North American content. There is a three-year transition period to get to that point.

Auto parts that go into a vehicle manufacturing process must have 60% to 75% regional content. Aftermarket auto parts are also affected in some circumstances. These rules do not distinguish between parts for manufacturing versus aftermarket parts.

Dairy and some other agricultural products will be affected by the new agreement. Under CUSMA the US has more access to the Canadian dairy market. Specific to dairy, access to the Canadian market ended up increasing by something like 3.6 percent. This is an area where, regardless of whether the product qualifies under specific Rules of Origin, the importers still need to have *quota* to be able to avoid really high punitive duties. CUSMA provides more *quota*, and importers must apply.

One example for food products. The definition of specially defined mixtures has changed under CUSMA. The change in definition refers to products containing more than 20% chicken. This really applies to a lot of the products you may find in grocery stores. It could be a chicken rice dish or something like a Mexican food type item with chicken in it. It is important to not fall under the chicken *quota*.

For instance, a couple of recipes were tweaked so that now the chicken is partly cooked or cooked. For importers that are involved in this area they may want to look to adjust their recipes when they apply, because falling under the *quota* is quite problematic.

Other areas of change?

Yes, in the area of e-commerce. Before this trade agreement came into effect, the requirements were pretty simple. Goods up to \$20 CAD don't attract duty, don't attract tax, and don't require an entry as long as they're not regulated by other government departments. That rule remains in place. However, Canada has the lowest *de minimis* amount in the world. The US wanted Canada to increase their *de minimis*. In the US, the *de minimis* is \$800 U.S. dollars. The US wanted a Canada to increase their *de minimis* significantly. In the end, the Canadian *de minimis* has been increased by a very small margin.

The first rule, the \$20 rule, still applies but now you have this additional rule that applies only to shipments that come from US and Mexico and that are only applicable to shipments that are sent by courier. The postal amount doesn't change.

Effective July 1st for shipments from the US and Mexico under \$40, there will be no duty or tax applicable, and no customs entry required. If the shipment is between \$40 and \$150 from the US or Canada, by courier only, there'll be no duty but tax will still apply.

In Canada, where we have the federal the goods and services tax and some provincial sales taxes apply for direct to consumer type sales, a customs entry is required. In addition, if any of the goods are regulated by other government departments, a food item or something like that, they may not qualify.

Purposely splitting shipments, in order to avoid the limits is not allowed.

Are there changes to the Low Value Threshold?

Another thing that is changed under CUSMA is the low value threshold. Many importers may not notice this change; however, this value threshold allows for expedited clearance processes in the courier mode. It also allows for a simplified accounting process for all modes so longer time frames, etc.

Before the CUSMA changes, shipments under 2,500 qualified for LVS. The LVS amount has been increased up to \$3,300 for brokers which will result in some administrative adjustments.

If your shipment is under \$3,300, you don't require certification.

If you are an importer or an exporter, you may want to consider certifying – regardless of value – because, in the case of an audit or other situation, there may be a requirement to prove the origin in order to prove that the product qualifies. Products still need to qualify even if it does not require certification.

What are the changes regarding refunds?

Refunds have undergone a significant change. In the past under NAFTA, you only had one year to claim back duty in cases where you had paid for goods that qualified under NAFTA. Under the new trade agreement, in Canada specifically, there will be a four-year time frame to claim duties back.

Customs Rulings

In Canada we have advance rulings so for those importers that might have advanced Rulings of Origin under NAFTA. Those don't transfer to the new trade agreement and it is necessary to reapply in those situations.

Are there new rules for record keeping?

The new trade agreements for record keeping specify that five years is needed for record keeping related to the certification process.

Different countries have longer time frames, but for Canada – generally speaking for imports – the best practice is to keep records for six years. It is important to note that you still must comply with a country's specific requirements.

Are there documentation changes?

Regarding documentation and certification there are some pretty big changes. The NAFTA Certificate of Origin is not valid for shipments (since June 30th). You cannot use the NAFTA form to certify under CUSMA.

In fact, that there is no prescribed format, so the government and the parties to the agreement have not issued forms as they did with the NAFTA's Certificate of Origin. So that

allows you to choose how you want to present the information. It could be on an invoice, it could be on another document, but there are mandatory data elements.

The new trade agreement allows the importer to certify. Under NAFTA, exporters and producers were the ones that certified the products and completed the NAFTA Certificates of Origin, and that will remain so. But under CUSMA, the importer can also certify. However, again this is another one of these things where we wonder why – and we're not really recommending in most circumstances that the importer does it in most circumstances. The importer even has less information than the supplier or the producer and it's harder to obtain that information.

In specific situations, where an importer might have the knowledge, they would still have to understand there are minimum data elements required for the certification.

Notice it is called "certification" as opposed to a certificate. The process really is about certification in the format that you choose to certify it in. The minimum data elements are pretty similar to NAFTA.

Some certificates have been dated back to January 1, 2020. You can't certify the blanket period you have to start it at July 1st.

How can Courtney Agencies help during the transition from NAFTA to CUSMA?

The experts at Courtney Agencies have developed tools to help. Our website is loaded with free client resources (www.courtney.ca).

Courtney has developed on-line, easy to use forms – with instructions for some that are more complicated.

We have a Memo on our website, we have the links to specific Rules of Origin. As important as those things are, they can be really hard to find on the government sites. We make it easy. The ones that are hard to find are those specific to automotive and auto parts. We have developed a writable pdf form, which is easy to use when you have a definite number of products.

We have a continuation sheet as well with instructions on how to complete it.

We have an excel spreadsheet for extensive product lines. We love it when the certification includes part codes specifics so we can relate it back to the actual goods, rather than generic descriptions when that's relevant.

All of these tools were designed by Courtney to help our customers easily navigate even the tricky waters. At Courtney, we have spent a lot of time over the last few months educating ourselves on the new trade agreement. Our team stands ready to help and support you and your organization.

We have weekly Trade Updates – which highlight important news and developments over the week. Sign up for those by sending us an email, or subscribing on our website.