USMCA´s much expected “Uniform Regulations,” which will be binding in all three member countries, were finally issued on June 3, 2020, less than a month ahead of the July 1, 2020 entry into force of the Trade Agreement replacing NAFTA.

The Uniform Regulations help interpret, apply and administer several USMCA´s Chapters, namely 4 (Rules of Origin), 5 (Origin Procedures), 6 (Textiles and Apparel Goods), and 7 (Customs Administration and Trade Facilitation).

The regulations are voluminous. Many companies will find that complying with these rules requires a wide-spread review of the company’s operations, as well as close coordination with the entirety of the company’s supply chain. For example, to ensure ongoing access to free trade preferences, many companies may need to: (1) re-evaluate the new value-added rules, including the calculations of originating content; (2) work closely with suppliers to determine the amount of originating content in goods supplied, with confirmation that the suppliers are correctly applying the new rules; (3) determine the maximum content (10%) for a good from outside the region not to affect the regional value content of a qualifying good; (4)
determine if specialized rules of origin that govern certain sectors and products impact the calculations; (5) determine the “average” production to have a good or series of goods be considered as originating; (6) evaluate options as to how to manage inventories and determine the value of materials used to manufacture goods; (7) evaluate overhead and fixed costs to determine how they should be treated under the new origination rules; (8) review transportation of goods outside of the USMCA countries to determine how this impacts claims of originating status; and (9) determine whether special treatment for sets of goods and kits impact claims.

As was expected, the Uniform Regulations address in great detail automotive goods: expanding and, at times, going beyond what we already knew for USMCA’s specific rules of origin for motor vehicles and their parts. The regulations provide much needed definitions and interpretations to be used by automotive manufacturers, such as defining which mathematical formulas, motor vehicles and parts will comply with Regional and Labor Value Contents (with parts being able to contribute to the Labor requirement). The regulations also address Steel and Aluminum requirements, define the production averaging specifications and alternative staging regimes, and detail the part classifications in several Tables. There is even a Schedule for a “Method for Calculating Non-allowable Interest Costs.”

Even with the guidance of the new Uniform Regulations, there are numerous gray areas in the sweeping new USMCA rules. Each company will have its own unique issues, based upon its own product lines, the way that it operates, its own supply chain, the level of its own production, and other factors that will vary from company to company. With the deadline for compliance being so close, and with so many companies still being impacted by shutdowns and other coronavirus concerns, getting a quick handle on the rules and how they impact your company is essential. As we can see, interesting times are a few days away, so companies that are impacted by the new USMCA rules need to roll up our sleeves and look carefully at the new Uniform Regulations and carefully determine the impact on their operations.

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