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Vehicle Producers Granted Opportunity to Petition for Extra Time and Alternative Compliance Requirements in USMCA Transition

Auto industry members who have historically relied on duty-free treatment of imports among the U.S., Canada and Mexico under the North American Free Trade Agreement (NAFTA) are now facing substantial changes in the qualification criteria for such treatment under the new United States–Mexico–Canada Agreement (USMCA). While the USCMA incorporates a staging regime that allows vehicle producers to build up to the eventual 75% regional value content and 45% labor value content requirements, this staged implementation may not give producers sufficient time to make the dramatic supply chain changes that will be required in order to meet the new criteria.

With this concern in mind, the USMCA contains provisions allowing producers of passenger vehicles or light trucks (vehicle producers) to request an “alternative staging regime.” The possible benefits of such an alternative staging regime include:

- providing a longer period of transition to the USMCA qualification criteria;
- alternative compliance benchmarks; and
- an exemption from the core parts requirements of the USMCA during the course of the transition.

The United States Trade Representative (USTR) has now published detailed procedures for how an interested vehicle producer may request an alternative staging regime. Importantly, such a producer must submit a petition to the USTR no later than **July 1, 2020**. If the petition seeks an alternative staging regime for 10% or less of the vehicle producers’ total production of vehicles, the petition may be approved with minimal supporting information. However, a petition for greater than 10% of total production requires a complex and

extensive filing, the key component of which is a detailed and credible plan for reaching compliance with standard USMCA requirements by the end of the transition period. The USTR will review the plan and provide feedback. A final version must be submitted by **Aug. 31, 2020**. The USTR's determination as to the petition will depend upon the level of detail and credibility in the information contained in the plan.

Given the significant possible benefits of an alternative staging regime, as well as the complexity involved in preparing a petition, we recommend vehicle producers interested in pursuing this option obtain competent trade counsel to assist in the process.

For more information, please contact [Jan de Beer](#), [Katie Berkley](#), [Chanhee Han](#), [Emily Tanji](#) or any attorney in Frost Brown Todd's [Mobility and Transportation](#) industry team.

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