



### Overview

This provision covers the requirements for applying for refunds of excess duties paid on goods that would have qualified for preferential tariff treatment upon importation. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

### References

- **USMCA**
  - *Final Text*: Chapter 5, Article 5.11
  - *HR 5430 Citation*: Title II, Section 206
- **NAFTA**
  - *Final Text*: Chapter 5, Section A, Article 502(3)
- **CFR**: 19 CFR 1520(d)

### Significant Changes in USMCA

Provision	USMCA	NAFTA
<b>Effective Period</b>	<ul style="list-style-type: none"> <li>• <b>No change</b> – NAFTA and USMCA. Post-importation can be filed pursuant to 19 USC 1520(d), no later than one year after the date of importation</li> <li>• USMCA also allows for a longer period if specified in importing Party's law</li> </ul>	
<b>MPF Exemption</b>	<ul style="list-style-type: none"> <li>• <b>Change from NAFTA</b> - (MPF) is not exempt.</li> </ul>	
<b>Responsible Party(ies)</b>	<ul style="list-style-type: none"> <li>• <b>Change</b> – Importer focus. NAFTA is exporter focused.</li> </ul>	
<b>Eligibility</b>	<ul style="list-style-type: none"> <li>• <b>No change</b> – both allow an importer to submit a post-importation claim to obtain a refund of any excess duties paid on a good, provided that the good would have qualified for preferential tariff treatment upon importation</li> </ul>	
<b>Documentation Requirements</b>	<ul style="list-style-type: none"> <li>• <b>Minimal change</b> – both require an originating statement and other documentation relating to importation of good</li> <li>• USMCA allows for certification of origin; while NAFTA requires a formal Certificate of Origin (Form 434)</li> </ul>	

## Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
<b>Effective Period</b>	<ul style="list-style-type: none"> <li>No later than one year after the date of importation or a longer period of specified in the importing Party's law</li> </ul>	<ul style="list-style-type: none"> <li>No later than one year after the date on which the good was imported</li> </ul>
<b>Responsible Party(ies)</b>	<ul style="list-style-type: none"> <li>Importer</li> </ul>	<ul style="list-style-type: none"> <li>Importer and Exporter/Producer responsible for certification.</li> </ul>
<b>Eligibility</b>	<ul style="list-style-type: none"> <li>Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into the territory of the Party.</li> </ul>	<ul style="list-style-type: none"> <li>Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer of the good may apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment</li> </ul>
<b>Documentation Requirements</b>	<ul style="list-style-type: none"> <li>Make a claim for preferential tariff treatment;</li> <li>Provide a statement that the good was originating at the time of importation;</li> <li>Provide a copy of the certification of origin; and</li> <li>Provide any other documentation relating to the importation of the good as the importing Party may require.</li> </ul>	<ul style="list-style-type: none"> <li>A written declaration that the good qualified as an originating good at the time of importation;</li> <li>A copy of the Certificate of Origin; and</li> <li>Such other documentation relating to the importation of the good as that Party may require.</li> </ul>