The Honorable Jamieson Greer

United States Trade Representative

500 17th Street NW Washington, DC 20508

Submitted via: Regulations.gov

October 31, 2025

Dear Ambassador Greer,

On behalf of the American Association of Exporters and Importers ("AAEI"), we respectfully submit the following comments in response to the Office of the United States Trade Representative's (USTR) request for public comment in Federal Register Notice Docket Nos. USTR–2025–0004 and USTR– 2025–0005.

INTRODUCTION

AAEI has been the national voice of the American trade community since 1921. Our unique role as an advocate for both U.S. importers and exporters reflects a broad membership base of manufacturers, distributors, retailers, and service providers, many of whom are small businesses offering diverse capabilities and technologies to offer to the many agencies of the U.S. Government. With the promotion of fair and open trade policy and practice as our core value, AAEI addresses international trade, supply chain, export control, and customs and border protection issues from legal, technical, and economic perspectives.

The core tenet of AAEI's 100-plus-year mission has been to improve trade facilitation for U.S. businesses. Trade facilitation makes it easier, faster, and less costly for U.S. goods to move across borders. Efficient and effective trade procedures—such as streamlined customs clearance, transparent regulations, and digital documentation—reduce delays, lower transaction costs, and minimize the risks associated with international trade. For U.S. businesses, this means improved competitiveness, stronger supply chains, and greater access to global markets. On a larger scale, trade facilitation supports U.S. economic growth by encouraging investment, boosting exports, and fostering closer cooperation between trading partners. In short, the trade facilitation measures within USMCA supports American businesses' productivity and U.S. jobs.

SUMMARY OF COMMENTS

To strengthen and modernize the USMCA, several key improvements should be considered. First, the agreement's core framework is strong and should remain in place to preserve stability and certainty for North American trade. However, enhancements can further streamline operations and ensure fairness across all member countries. Maintaining **substantial transformation** as an additional qualification method would provide greater flexibility and reflect modern production practices. Establishing a **tri-national classification and verification review team** would promote consistency and collaboration in trade compliance. Revising **duty drawback rules** to ensure equal opportunities across the U.S., Mexico, and Canada would create a more level playing field for exporters. Finally, requiring **timely notice before implementing regulatory changes** would enhance transparency and allow businesses to adapt effectively strengthening trust and predictability within the agreement. AAEI believes the improvements outlined in these comments will enhance USMCA's objective to enhance American businesses' productivity and increase U.S. jobs.

USMCA SUPPORTS AMERICAN BUSINESSES' PRODUCTIVITY AND U.S. JOBS

AAEI advocates for the profitability of American companies—and that profitability begins with USMCA compliance. To effectively navigate the complexities of trade policies designed to support and protect U.S. businesses, companies need certainty and transparency. This requires a USMCA that enhances American businesses productivity and effectively maintains a safe, secure, and efficient supply chain. AAEI applauds USTR for providing meaningful bi-directional dialogue between the U.S. trade community and USTR that will lead to effective implementation of USMCA.

AAEI believes USMCA strengthens North American economic integration by promoting fair, reciprocal trade and supporting high-standard rules across goods, services, and digital commerce. It serves as a modern agreement that improves labor protections, enhancing intellectual property and digital trade provisions, and increasing market access for U.S. agricultural and manufacturing exports. By fostering predictable supply chains, reducing trade barriers, and encouraging cross-border investment, the USMCA boosts competitiveness, supports millions of U.S. jobs, and ensures that North America remains a dynamic and resilient hub for global trade and innovation.

USMCA PROVIDES TRADE BENEFITS FOR AMERICAN BUSINESSES

Manufacturing Flexibility:

The USMCA provides U.S. businesses with greater manufacturing flexibility by streamlining cross-border trade and strengthening North American supply chains. Through modernized rules of origin, improved customs procedures, and enhanced regulatory cooperation, companies can source materials and components from Canada and Mexico with reduced administrative burden and faster processing times. This integration allows U.S. manufacturers to optimize production across borders, balance costs, and respond more efficiently to market shifts while maintaining preferential tariff treatment. U.S. based Companies may have established certain production lines in Mexico, others in the US, and others in Canada. Components may begin their journey in Canada, for example, then travel to Mexico for processing, then to the US for final assembly and testing. In many cases, these production lines have been in place for decades and local workers have developed skills needed to perform these operations efficiently. Allowing companies to leverage their skilled workforce to produce high quality goods at lower prices provides benefits to consumers and supports the region's export markets.

The result is a more agile, resilient, and competitive manufacturing environment that supports innovation and regional economic growth. To keep this enormous benefit for U.S. manufacturers, the current rules of origin must remain.

Maintaining Substantial Transformation Rules of Origin:

All U.S. importers and manufacturers favor an objective, fair, and transparent form of determining origin. The substantial transformation standard, for all its perceived problems, is a long-established concept. Comparatively, while substantial transformation is generally a highly intuitive determination, it can be determined based on facts subject to less interpretation than tariff classification. Substantial Transformation also has over 100 years of judicial precedent behind it, and notable agency agreement with that precedent.

The three most common forms of substantial transformation are tariff shift, regional value content and processing rules. We will discuss the merits and challenges of each briefly.

Tariff shift seems the easiest on the surface however requires in-depth knowledge of Harmonized Tariff System (HTS)classification protocols. The use of an incorrect classification may result in goods not qualifying for USMCA. This expertise must either reside in-house or require costly, external subject matter experts for accuracy and diligence. Frequently, while labor and overhead contribute significantly to the U.S. economy, a tariff shift cannot be met with some of the materials, even though they are significantly transformed into specific goods through programming, machining, chemical transformation, or other production methods. . Relying solely on the tariff shift rule can be an exclusion to participate for U.S. manufacturers.

Regional value content calculations can be an easier avenue if the margins are high enough. Increasingly in tight supply chains, especially for mid-tier manufacturers, it is more difficult to achieve the threshold. Raw and intermediate content from all one country or region is not achievable in today's supply chains for many reasons, and frequently, intra-company manufacturing is used from a plant outside of the FTA countries, imported and further produced and cannot contribute to the RVC. However, these materials are invaluable from a technology or efficiency perspective.

Processing rules offer some industries the opportunity to acknowledge their substantial U.S. transformation when included in a trade agreement. The United States is the most advanced in recognizing these as contributing to substantial transformation and many, but not all, countries have followed suit. However, not all industries can utilize processing rules.

Recognizing that all manufacturing contributes to the economy, the ideal set of rules of origin includes an opportunity for each rule: a tariff shift, or RVC or processing rules. Additionally, the origin of the product should be recognized through the achievement of any of these established rules: tariff shift, regional value content or processing rules.

Additional challenges with rules of origin schemes based on foreign ownership content or derivative content, requires American businesses to make difficult and excessive technical analysis of all materials and components incorporated into a good. For multi-layer bills of materials and multiple manufacturing sites, one of the biggest challenges is implementing procedures to conduct supplier due diligence on country of origin and classification.

Rules of origin schemes based on foreign ownership content or derivative content will require many U.S. businesses to determine and analyze the classification of potentially thousands of components. Many such components are commonly obtained from multiple domestic and foreign suppliers, making the process complex and costly. As most corporate ownership information is not publicly available, U.S. manufacturers will be required to gather information from suppliers and sub-suppliers, which is an extremely difficult and expensive task, if not impossible. This will continue to drive the cost of conducting qualification reviews or it will force companies to purchase expensive software solutions. The latter will harm small and medium-sized businesses that lack the resources to purchase and maintain expensive software solutions.

In addition to the extra cost and due diligence this will impose on U.S. businesses, it creates additional burden for CBP, carriers, and freight forwarders. If ownership or derivative ownership information is not provided within the appropriate time frame, then many shipments will be left abandoned at ports, resulting in increased government and port costs, and shipper detention and demurrage charges. The carrier or freight forwarder cannot return shipments to origin without authorization from the CBP. Carriers and freight forwarders would need to cancel the import entry, seek a refund for any duties and taxes paid on behalf of the importer and warehouse/manage the shipments until a license/export authorization is obtained/provided. This process will increase costs for U.S. importers, the service providers that help facilitate U.S. trade, and, ultimately, the US consumers, as well as overload an already overtasked agency.

For the reasons laid out above, any changes to the longstanding rules of origin currently in place will have a significant legal and commercial effect. Similarly, other yet unrecognized regulatory provisions are likely to be affected, resulting in unknown and/or unintended consequences to U.S. commerce. These proposals will conflict with, change or effectively revoke many existing Customs rulings. Further, an unknown number of settled administrative and judicial precedents concerning manufacturing and major or minor processing will be jeopardized. Such changes will also create uncertainty and confusion for both industry and concerning trade remedies and trade programs and depart from traditional policy of acting in the sound administration of the customs laws.

U.S. Businesses Ability to Self-Certify and No Forms:

The ability for importers, producers, and exporters to self-certify the USMCA qualification is a significant advantage, streamlining the process and reducing administrative burden.

The USMCA's less stringent requirements regarding the form itself, focusing on the necessary data elements rather than a specific template, have reduced the administrative burden associated with claiming preferential treatment.

Self-certification offers several key advantages for companies participating in trade programs or agreements like the USMCA. By allowing exporters, producers, or importers to self-certify origin—rather than relying on government-issued forms—it reduces administrative burden and speeds up trade transactions. Companies gain greater flexibility to manage documentation internally, integrate certification into their own compliance systems, and respond quickly to customer or shipment needs. This approach also lowers costs by eliminating the need for third-party certificates or extensive paperwork, while still maintaining accountability through recordkeeping and audit readiness. Overall, self-certification streamlines trade operations, enhances efficiency, and empowers businesses to take greater ownership of their compliance processes.

Duty Free Trade for Qualifying Goods:

American businesses are successfully leveraging production capabilities across all three countries without incurring duties on qualifying goods. U.S. businesses leverage duty-free treatment under the USMCA by strategically structuring their supply chains and sourcing practices to meet the agreement's rules of origin—the criteria that determine whether a product qualifies for preferential, tariff-free access within North America. By ensuring that a sufficient percentage of inputs or value-added production occurs in the U.S., Mexico, or Canada, companies can eliminate import duties on qualifying goods, reducing overall production and sourcing costs. Many manufacturers also take advantage of streamlined customs procedures and enhanced trade facilitation measures to move products more efficiently across borders. This allows businesses to optimize regional production, improve cost competitiveness, and reinvest savings into innovation, workforce development, and expansion within North America's integrated manufacturing ecosystem.

Goods that qualify for USMCA should be considered completely duty-free. By promoting manufacturing opportunities in the US, Mexico, and Canada, USMCA raises the economic level of all three countries. For example, parts produced in Canada from Mexican-origin copper, shipped to the US for assembly into an industrial machine, should not be subject to duties or trade remedies at any point during the production cycle.

USMCA RECOMMENDED IMPROVEMENTS

AAEI would like to provide the following recommendations that U.S. businesses believe will effectively improve USMCA and support and protect U.S. companies' need for certainty and transparency.

Duty Drawback Restrictions in USMCA:

Article 2.5 of the United States-Mexico-Canada Agreement (USMCA) provides for significant restrictions on duty drawback and duty deferral programs, restrictions that were carried forward from the 1992 North American Free Trade Agreement (NAFTA). U.S. manufacturers and exporters have been burdened with these restrictions now for over 30 years, while their competitors in Mexico and Canada have enjoyed workarounds that provide them a competitive advantage. Furthermore, the significant changes to international trade and the trading relationship between the former NAFTA and now USMCA parties have made the reasons for these restrictions obsolete. We recommend unshackling our manufacturers and exporters from these restrictions by eliminating the drawback and duty deferral restrictions from any future USMCA obligations.

We recommend removing the listed restrictions listed from the USMCA for the following reasons:

Duty Drawback Restrictions Article 2.5, Paragraphs 1-5

Article 2.5, paragraphs 1-5, create restrictions which essentially eliminate the benefits of duty drawback and duty deferral programs, such as foreign trade zones, when goods are exported to Canada and Mexico. These restrictions force manufacturers to perform a complex analysis comparing the duties paid on imported materials and components into the U.S. to the duties paid when the finished good enters Canada or Mexico, not to mention the extra burden of providing the documentation to prove the duties paid into Canada or Mexico. Because the lesser of the two duties is usually zero, the result is that most exports of goods manufactured in the United States cannot receive any duty drawback and ultimately incur duty when exported from a duty deferral program. By contrast, Mexico established a sectoral program known as PROSEC in which its manufacturers can simply reduce or eliminate the duty paid on imported components and materials that go into exported finished goods. Similarly, Canada has targeted specific tariffs for elimination or reduction based upon the use of those components/materials in exported finished goods. These "evasion" techniques, when coupled with our country's adherence to the complex drawback limitations set out in Article 2.5, have resulted in great harm to our manufacturers and exporters. These restrictions were based on fears years ago that Mexico would develop unrestricted export platforms under NAFTA. Those fears never came to reality and these outdated restrictions only make our manufacturers and exporters less competitive. The far better course is to eliminate these restrictions all together and allow U.S. companies the same benefits enjoyed by their competitors in Mexico and Canada.

Duty Drawback Restrictions Article 2.5, Paragraph 2(c)

This restriction eliminates what has become a significant tool for U.S. companies to compete in foreign markets - substitution unused merchandise drawback. Paragraph 2(c) prevents the United States from refunding customs duties paid on imported goods that are then substituted by a similar exported good to Canada or Mexico. While the USMCA restriction only applies to customs duties, the United States unilaterally expanded this restriction in 19 USC 1313(j)(4) by making exports to Canada and Mexico substituted for an imported item unavailable for drawback of taxes and fees as well as customs duties. Substitution drawback is widely used for exports to almost all other countries in the world other than Canada and Mexico. Substitution benefits U.S. manufacturers and exporters by allowing them to drawback duties, taxes, and fees paid on imported products when products of the same 8-digit HTS are exported from the United States. This promotes exports by allowing large manufacturers involved in both import and export trade to be more competitive by reducing their tariff burden and lowering export prices when they export domestically produced, like-kind products. Similarly, it makes the United States a more attractive location for worldwide manufacturing and distribution centers, allowing manufacturers and distributors to stock both U.S.-made products and imports within the United States. Eliminating these restrictions for exports to Canada and Mexico will allow U.S. manufacturers to better compete on a worldwide scale, create additional jobs, and support making the United States a prime location for manufacturing and distribution. It will also result in significant administrative efficiency for CBP by eliminating cumbersome and time-consuming processes required to trace imported products through to export to obtain the less advantageous direct identification drawback. Finally, it will also correct the overbroad limitation currently in 19 U.S.C. 1313(j)(4) and 1313(n)(3) preventing U.S. companies from getting substitution drawback on taxes and fees even though the USMCA does not restrict that drawback. As well as improvements to drawback, there are opportunities to improve USMCA compliance.

USMCA Qualifying Verification Improvements:

The verification process can be challenging and resource intensive. Streamlining the verification process and providing clear guidelines would improve efficiency and reduce uncertainty. Simplify and standardize the verification process to reduce administrative burden and improve efficiency. Invest in training programs and communication initiatives to ensure a consistent understanding of the USMCA among all stakeholders. For certain strategic commodities, a more robust qualification and up-front certification process would reduce the burden of post-entry enforcement actions by the governments, which would affirm trust between governments and the importing community as tariff and national trade barriers have proliferated.

One suggestion is for the verification to be conducted by the regulators in the country in which the declarant is based. This could reduce language barriers and allow more coordination between the government agencies. Our recommendation is to establish a centralized verification and classification team consisting of participants from the three member countries.

Enforcement Disparities Between the Three Countries:

Enforcement of certification requirements is not consistent across all three countries. Mexico appears to have more stringent enforcement mechanisms compared to the US and Canada. This creates an uneven playing field and undermines the integrity of the agreement. Encourage consistent enforcement of certification requirements across all three countries to ensure a level playing field and maintain the integrity of the agreement.

In Mexico, Mexican customs (SAT) have a highly formal, legalistic approach to USMCA origin and compliance audits. Auditors often rely strictly on procedural form and narrowly define documentary requirements, leaving little room for contextual explanation or consideration of the totality of evidence. This rigid, “checklist” style of enforcement—heavy on legal citations and formal notices—limits flexibility, disregards reasonable business documentation, and can penalize compliant importers for minor technical errors rather than substantive noncompliance.

Mexico SAT officials have varying interpretations of regulatory requirements. Meaning, a USMCA claim approved at one SAT office might face extra questions or hold-up at another, even with similar documentation. For example, guidance on origin certification, valuation or temporary imports might be applied variably depending on the customs office or the inspecting official.

Mexican authorities have increased scrutiny on temporary imports under IMMEX, including audits of re-export timing and valuation documentation. Although the intent is valid, unclear requirements and inconsistent enforcement cause downstream effects for U.S. suppliers—especially those selling intermediate goods for manufacturing in Mexico. More specifically, automotive assembly plants and component manufacturers in Mexico frequently rely on U.S. exports of tools, dies, or subassemblies that enter temporarily under the IMMEX (maquiladora) regime. Increased audits of re-export timing and inventory reconciliation have caused significant slowdowns. U.S. exporters supplying such goods bear the downstream impact when Mexican importers face suspensions or fines for delayed reconciliations.

Mexico occasionally implements new customs measures with minimal notice, leaving little time for U.S. exporters and their partners to adapt systems and procedures. This unpredictability is contrary to the transparency and cooperation principles embodied in the USMCA. Rule modifications — such as updates to the Pedimento (customs entry form) fields or to sectoral programs — are sometimes implemented with minimal notice. This unpredictability undermines the reliability of cross-border operations that are critical to USMCA competitiveness.

For example, the recent Reform to the Mexican Customs Law introduces significant changes that increase the responsibilities and liabilities of customs brokers, impose harsher penalties, and restrict the scope of broker licenses. By eliminating broker liability exclusions under Article 54, brokers are now held accountable for errors in customs declarations, valuation, and compliance—even when based on importer-provided information—effectively turning them into tax guarantors for the government. This shift will likely force brokers to adopt costly and time-consuming verification measures or decline representation altogether, increasing logistical delays and export costs for U.S. businesses while reducing the availability of qualified brokers. Additionally, amendments to Article 178 raise fines for customs violations from 250% to 300% of a good's value and expand the range of infractions, further heightening compliance risks. Finally, the introduction of specialized, product-specific broker licenses limits the types of goods a single broker can handle, compelling U.S. exporters to engage multiple brokers and disrupting cross-sector expertise vital to efficient trade with Mexico. Similarly, Canadian customs (CBSA) have USMCA enforcement disparities.

For example, CBSA requires the power of attorney to allow customs brokers to interact with the Agency and release goods promptly and safely on behalf of businesses. In contrast to the policy of the U.S. and Mexico allowing for e-signatures, Canada mandates a wet-ink signature on powers of attorney. This policy does not comply with the Articles 7.7.1, 7.7.2(b), and 7.9(a). Allowing the use of e-signatures on powers of attorney will speed the movement and release of goods without compromising security in the supply chain. Through a USMCA Working Group on Customs work towards eliminating enforcement disparities across the three countries, particularly for products where significant disparities exist.

Tariff Classifications Discrepancies Between the Three Countries:

The Harmonized Tariff Schedule (HTS) codes used by the U.S. and Mexico can often differ in classification and interpretation, even for identical goods. These discrepancies create challenges during USMCA audits, as products classified under one HTS in the U.S. may not align with Mexico's equivalent code. This inconsistency can lead to disputes over origin qualification, incorrect duty assessments, and potential loss of preferential treatment. Ultimately, mismatched HTS classifications increase administrative burden and audit risk for companies operating under the USMCA framework.

One way to address HTS discrepancies between the U.S. and Mexico is to improve coordination and accountability in tariff classification. A key factor driving inconsistency is that in Mexico, the customs broker is legally responsible for tariff code accuracy, while in the U.S., that responsibility lies with the importer of record. This difference often leads to divergent classification practices and misalignment between both countries. To promote consistency and reduce USMCA audit risks, Mexico could consider shifting or sharing liability for tariff code accuracy with the importer, ensuring they take a more active role in product classification. This change would encourage greater alignment across both sides of the border.

This inconsistency requires careful attention and can lead to disputes. It has been an ongoing issue. Oftentimes, components and products are classified based on appearance or content in Mexico, while the US classification is based on function. A prime example is granola bars, which are classified differently in the US (Chapter 17), Canada (1904.10), and Mexico (1904.20), based on current rulings. Another example is some inputs brought into Mexico outside of North American for final assembly to produce the finish goods qualify for USMCA because there is a tariff shift. However, CBP is using origin verification audits to invalidate the tariff shift rule. Manufacturers believe that this is inconsistent enforcement of USMCA as U.S. Customs should simply follow the rules regarding tariff shift and not push companies for further processing if the finished goods meet the USMCA tariff shift rule. The three countries should establish a working group on tariff classification and enforcement.

USMCA Working Group on Enforcement and Tariff Classifications Discrepancies:

USMCA should provide for the establishment of a Working Group on Enforcement and Tariff Discrepancies. The working group would be charged with facilitating cooperation and considering modifications to the USMCA to improve harmonization of enforcement and tariff classifications. Through the working group, USTR should work towards harmonizing tariff classifications across the three countries, particularly for products from strategic sectors and for products where significant discrepancies exist. In addition, since tariff classification discrepancies are also a global issue, the U.S. should work with all global parties within the World Customs Organization to improve classification discrepancies.

Improve USMCA Compliance Communication and Education:

The three countries need to invest in training programs and communication initiatives to ensure a consistent understanding of the USMCA among all stakeholders. It is essential for businesses to understand USMCA's implications and requirements, especially as new tariffs are imposed on goods that do not qualify for USMCA and companies will look to qualify all goods, regardless of duty rates.

Mexico rolled out its new "General Foreign Trade Rules" in late 2024 and early 2025, allowing for little to no input from impacted stakeholders despite the requirements for each Party to "publish, in advance, regulations of general application governing trade and customers' matters" and to "provide interested persons the opportunity to comment before the Party adopts such regulations." The SAT officially published the rules on December 30, 2024, just two days before they were planned to take effect on January 1, 2025. A two-day window is not sufficient by international standards for stakeholder engagement, especially given the complexity and operational impact of these rules. Mexico. Mexico also does not "maintain a mechanism to regularly communicate with traders within its territory on its procedures related to the importation, exportation, and transit of goods," as mandated by the Agreement.

In the past six months, the United States has not provided adequate time for businesses to comply with changes in trade rules and tariff policies. We encourage CBP to continue the traditional best practice of providing stakeholders with enough time to abide by the changes. To further underscore the need for reasonable implementation timelines, it is important to understand that businesses need time to implement operational changes. This can include programming, requirement of more data, and training of personnel (exporter, importer, customs broker). This would benefit industry and partnerships in Mexico, the U.S. and Canada and allow for government led training and agency programming to be implemented correctly.

International Trade Administration and CBP-led USMCA training and communication programs will provide U.S. businesses with the comprehensive knowledge and practical skills needed to navigate the agreement effectively, which will ensure U.S. companies remain compliant and competitive in the North American market.

CONCLUSION

U.S. businesses are united in their belief that USMCA provides more value than challenges. The agreement enhances U.S. manufacturing, reduces regulatory burdens across borders, and improves American businesses productivity. The agreement must endure its review.

American Association of Exporters & Importers

Terminating the USMCA would disrupt the integrated North American economy that supports millions of jobs, strengthens regional competitiveness, and enhances supply chain security. The agreement provides the stability and predictability U.S. businesses need to invest, innovate, and expand, while ensuring that trade among the United States, Canada, and Mexico operates under high standards for labor and intellectual property.

More important, The USMCA supports the United States' foreign policy pursuits by strengthening economic ties with two of its closest allies—Canada and Mexico—while reinforcing North American competitiveness in the global economy. By promoting fair trade, high labor standards, and economic security standards, the agreement reflects U.S. values and demonstrates leadership in setting modern trade norms. It also helps counterbalance economic influence from other regions, such as Asia, by deepening regional supply chains and promoting economic stability in the Western Hemisphere. In doing so, the USMCA advances U.S. strategic interests, enhances regional cooperation, and supports a rules-based international trading system that aligns with broader U.S. diplomatic and economic goals.

Preserving and strengthening the USMCA is vital to sustaining economic growth, manufacturing resilience, and North America's global competitiveness. Ending the USMCA would introduce uncertainty, raise costs for producers and consumers, and weaken the continent's position in the global marketplace. AAEI supports a thoughtful review of the agreement's challenges and believes that addressing them will further enhance its effectiveness in promoting regional trade and prosperity. We appreciate your consideration of these comments

We look forward to working with USTR to preserve and strengthen the USMCA.

Sincerely,

Eugene C. Laney Jr.

President and CEO

American Association of Exporters and Importers