



**Canadian Vehicle
Manufacturers' Association**
**Association canadienne
des constructeurs de véhicules**



August 14, 2020

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Trade Representative*
Office of the United States
Trade Representative
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Steve Verheul
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Dear Sirs and Madam:

The associations representing the motor vehicle manufacturing industries in the United States, Canada and Mexico – the American Automotive Policy Council (AAPC), Autos Drive America, Canadian Vehicle Manufacturers' Association (CVMA), Global Automakers Canada and the Asociación Mexicana de la Industria Automotriz, A. C. (AMIA) – are deeply concerned with the most recent informal interpretation provided by the United States government regarding the calculation of the regional value content (RVC) for passenger vehicles and light trucks under the USMCA's Product-Specific Rules of Origin for Automotive Goods, as clarified in the Uniform Regulations for the USMCA.

We are specifically concerned about the U.S. government's interpretation regarding the relationship of the core parts calculation to the vehicle RVC calculation. The U.S. government has advanced an interpretation of these rules that is inconsistent with what industry has been told throughout its consultations with USTR over the course of the last two years. This is a key provision that led many of our members to assist in ensuring passage of the USMCA despite incredibly complex and onerous new rules of origin – and completely contradicts USTR's confirmation on this issue during previous conversations (as recently as May 2020) with industry and upon which sourcing decisions have already been made. This is a time-sensitive matter that must be resolved before the end of this month when automakers' petitions for Alternative Staging Regimes are due.

In short, the U.S. government has stated that the Uniform Regulations should be interpreted such that the super-core and key parts calculation methods¹ are only valid for purposes of meeting the core parts requirement, not for calculating the vehicle's RVC. This interpretation effectively requires two entirely separate RVC calculations - one for vehicles and one for "core parts". According to CBP and USTR, these calculations are entirely independent of one another such that the result of the RVC calculation for the "core parts" does not inform the result of the RVC calculation for the overall vehicle.

Contrary to the U.S. position, the texts of the USMCA and the Uniform Regulations mandate that the results of the core parts RVC calculation inform the vehicle RVC calculation. They cannot be seen as entirely separate calculations. Subsection 14(4) of the Uniform Regulations is an important case in point and states, in relevant part, as follows:

In addition to other applicable requirements set out in these Regulations, a passenger vehicle or light truck is only originating if the parts listed in column 1 of Table A.2. of these Regulations used in its production *are originating*. The value of non-originating materials (VNM) for such parts *must be* calculated in accordance with subsections 14(7) through 14(8), or, at the choice of the vehicle producer or exporter, subsections 14(9) through 14(11). . . . (emphasis added)

The first sentence makes clear that the methodology set out in that provision – as elaborated upon in Subsections (7)-(11) – is used to determine whether core parts “are originating”. The phrase “are originating” is unqualified, so there is nothing to indicate that a part found to be originating in accordance with the methodologies in subsections (7)-(11) would not be originating for *all purposes*, including the calculation of the RVC of the finished vehicle.

USTR appears to be qualifying “originating” by incorrectly reading into the text limiting language such as “for purposes of this paragraph”. The drafters of the Uniform Regulations could have added this language had this been their intention, but they did not. Therefore, USTR may not, after the fact, act as if this language was included. The language of other sections of the Uniform Regulation supports this interpretation, including that of Subsection 14(12), which provides additional detail on the super-core RVC calculation method. Subsection 14(12) states as follows:

The regional value content requirement for the parts listed in column 1 of Table A.2 may be averaged in accordance with the provisions in Section 16. Such an average may be calculated using the average regional value content for each individual parts category in the left hand column of Table A.2, or by calculating the average regional value content for all parts in the left hand column of Table A by treating them as a single part, defined as a super-core. *Once this average, by either methodology, exceeds the required thresholds listed in subsection (13), all parts used to calculate this average are considered originating.*” (emphasis added)

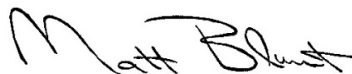
¹ See UR Sections 14(10)-(12), 14(7)(b) and 14(10)(b).

This language clearly indicates that once column one parts meet the RVC threshold, “all parts used to calculate this average are considered originating” - again without qualification – including for purposes of the vehicle's RVC calculation. Prohibiting automakers from counting the full value of column 1 parts, individually or as a single super-core part, as originating would negate this language. In our view, there is no other reasonable interpretation of that language. Nowhere is there any requirement to set aside the conclusion that core parts are originating and separately make that determination based on other calculation methodologies.

The U.S. government position therefore ignores, and is expressly contradicted by, the text of Article 4.5.4 of the USMCA, which is specifically clarified and applied to vehicles by Subsection 14(1) of the Uniform Regulations. These two provisions specifically *require* vehicle producers to *disregard* the value of non-originating materials used in the subsequent production of originating parts in the calculation of the vehicle’s RVC. The U.S. interpretation would require exactly the opposite. Moreover, the U.S. government’s interpretation leads to the absurd result that the RVC of all core parts must be calculated twice, with different results.

We understand that the Canadian and Mexican government authorities share these concerns and are in discussions with the United States government to resolve the issue. We remain hopeful that those discussions will recognize the points made above and expeditiously confirm our long-standing understanding regarding how the core parts calculation can be used for calculating the RVC of vehicles traded under the USMCA agreement.

Sincerely,



President
American Automotive Policy Council
(AAPC)



General Director
Asociacion Mexicana de la Industria
Automotriz, A. C.



President and CEO
Autos Drive America



President and CEO
Canadian Vehicle Manufacturers'
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