

24

Cómo documentar  
mi estudio de reglas  
de origen

**Mtro. Antonio Ávila**  
Socio de Comercio  
Exterior JA DEL RÍO



En el mes del amor, fortalezcamos lazos  
comerciales. **Hagamos un trueque y**  
**conectemos oportunidades sin fronteras.**

## Agenda

- ❖ Marco Jurídico
- ❖ Tratados de Libre Comercio
- ❖ Certificados de Origen
- ❖ Auditoría y Documentación
- ❖ Sanciones
- ❖ Recomendaciones y conclusiones





El nuevo año trae nuevos desafíos:  
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comercio exterior de México!



# Marco Jurídico

# MARCO JURÍDICO

TLC's

Tratados internacionales

Acuerdos de  
complementación  
económica

## *Constitución política:*

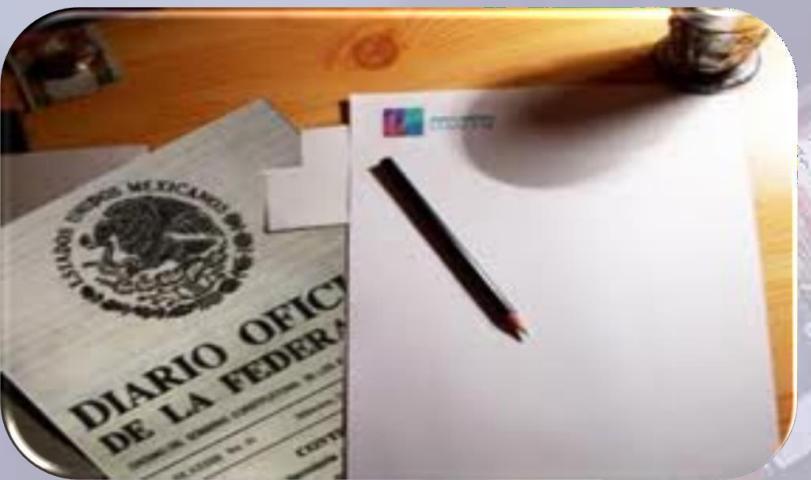
*Artículo 133. Serán Ley Suprema de toda la Unión cuando estén de acuerdo con la misma.*



Ley Aduanera y Ley  
de Comercio Exterior



Reglas en materia  
aduanera TLC'S



RCGMCE



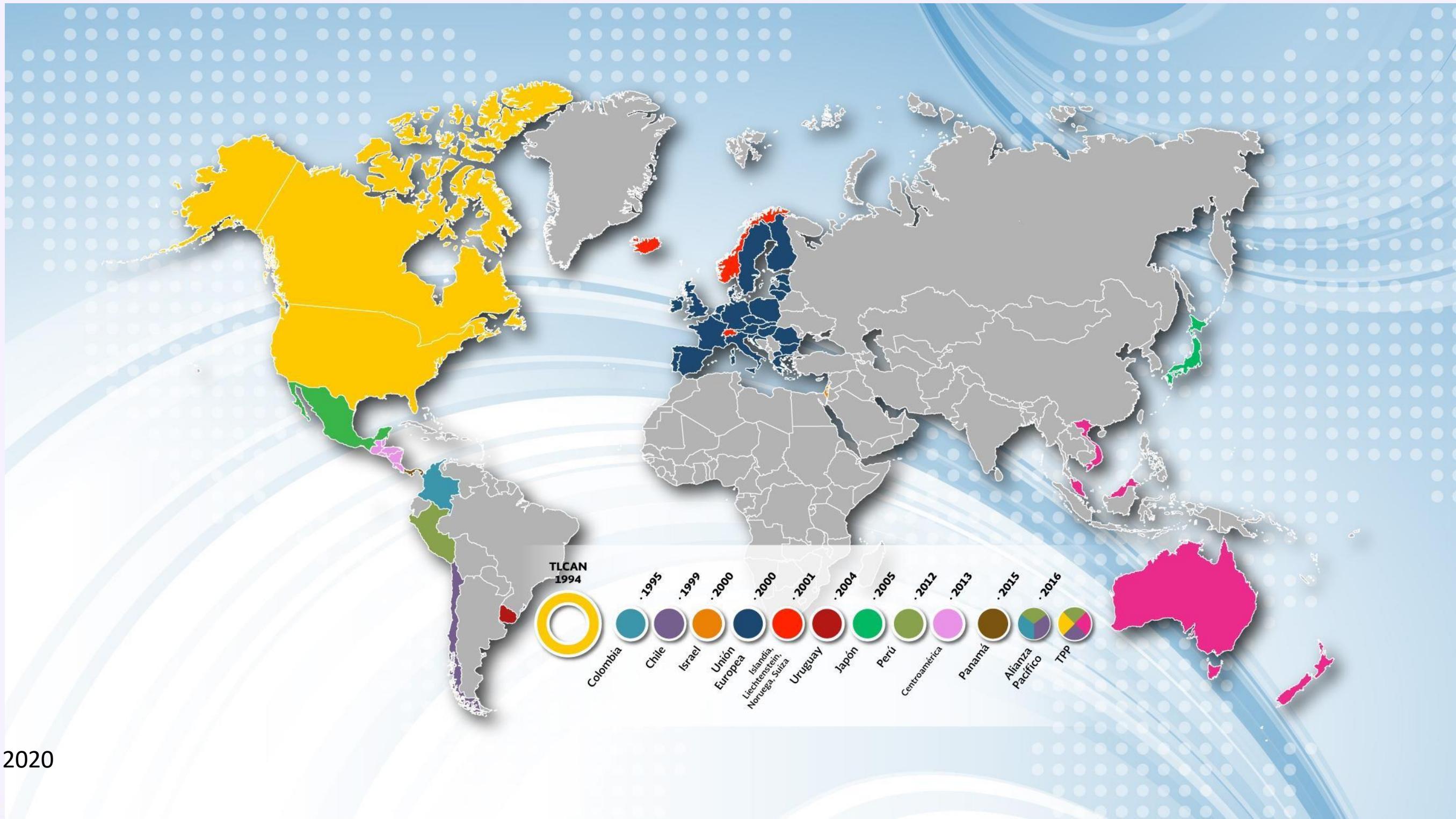
El nuevo año trae nuevos desafíos:  
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JA Del Río

# Tratados de Libre Comercio

# Tratados de México



TLCAN Cambia a TMEC – 01 de Julio 2020

## Beneficios TLC's

México cuenta con una red de 14 Tratados de Libre Comercio con más de 50 países (TLCs), y 9 acuerdos de alcance limitado (Acuerdos de Complementación Económica y Acuerdos de Alcance Parcial) en el marco de la Asociación Latinoamericana de Integración (ALADI).

### Financiero

- No aranceles
- Aranceles Reducidos.
- Beneficios en Derecho de Trámite Aduanero ( Ejemplo: TMEC: No DTA a la importación o Exportación. DTA sin TLC: .008% X Valor en Aduana

### Requisitos

- Calificar para el TLC – Estudio de Origen
- Utilizar Certificado de Origen o Declaración
- Expediente de origen

### Exportador Autorizado

- No necesidad de certificado de origen para tratados como JAPON, TLC AEJC y TLCUE



## Criterio de Origen

	<b>Generales</b>	<b>TMEC</b>
Obtenido en su totalidad	A	A
Bienes producidos a partir de material originario	B	C
Productos que cumplen con reglas de origen específicas	C	B
Valor de Contenido Regional	D	D

Derechos Reservados Lic. José Antonio Avila Núñez



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# Certificados de Origen

## *CERTIFICADOS DE ORIGEN PREFERENCIALES*

- **Autorización Directa del Exportador**
  - Solo se requiere la Firma del Exportador en el certificado de origen y **declaraciones de origen conforme a cada TLC**
- **Autorización de Secretaría de Economía**
  - a) Se autoriza solo el certificado
  - b) Se requiere cuestionario autorizado y posteriormente autorización del certificado
  - c) Declaraciones distintas al certificado como exportador autorizado para: Japón , UE y AELC

## CERTIFICADOS DE ORIGEN No PREFERENCIALES

- **Autorización de Secretaría de Economía**
  - De artículos mexicanos. General
  - **Sin Autorización de Secretaría de Economía**
    - Cámaras: certificados de origen que también se aceptan en los países de destino. Los formularios que las cámaras utilizan para tal efecto son distintos de los emitidos por la SECON
    - Declaraciones Generales de manufactura



**Declarar por escrito confundimiento en el certificado que el bien objeto de la importación califica como originario al momento de la importación. Existen identificadores en pedimento “TL”**



**Tener el certificado en su poder al momento de realizar la declaración.**



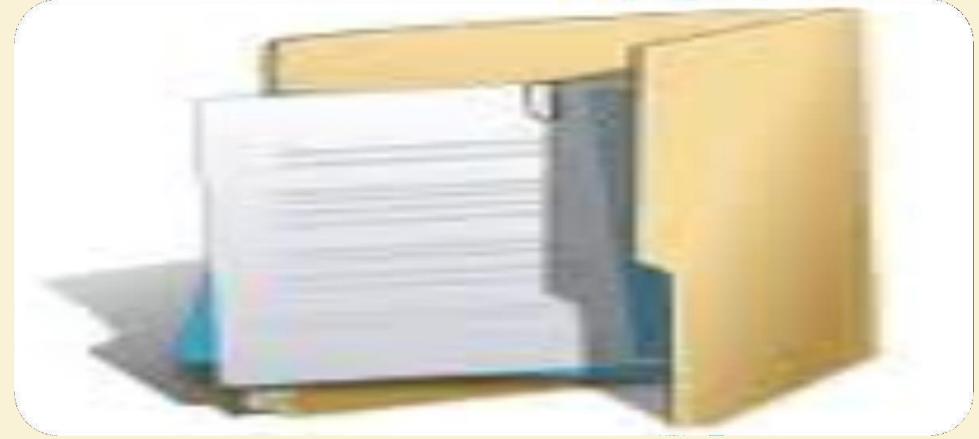
**Proporcionar una copia del certificado a la autoridad competente, cuando así lo solicite ésta, en algunos casos se solicita el original del certificado.\***



**Presentar declaración corregida y pagar los aranceles correspondientes, cuando el importador tenga motivos para creer que el certificado en que sustenta su declaración contiene información incorrecta. En este caso no será sancionado debido a su corrección voluntaria.**

### **OBLIGACIÓN DE LOS IMPORTADORES PARA LOS CERTIFICADOS DE ORIGEN**

# REGISTROS CONTABLES



## Registros de Exportación

- I. Origen, adquisición, costos, valor y pago de:
  - a) Bien
  - b) Materiales directos e indirectos utilizados
- II. La producción del bien en la forma que se exporte.

## Registros de Importación

- I. Documentación relativa a la importación
- II: Elementos justificativos de la prueba de origen
- III. Certificado de origen



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## *Auditorías por la autoridad*

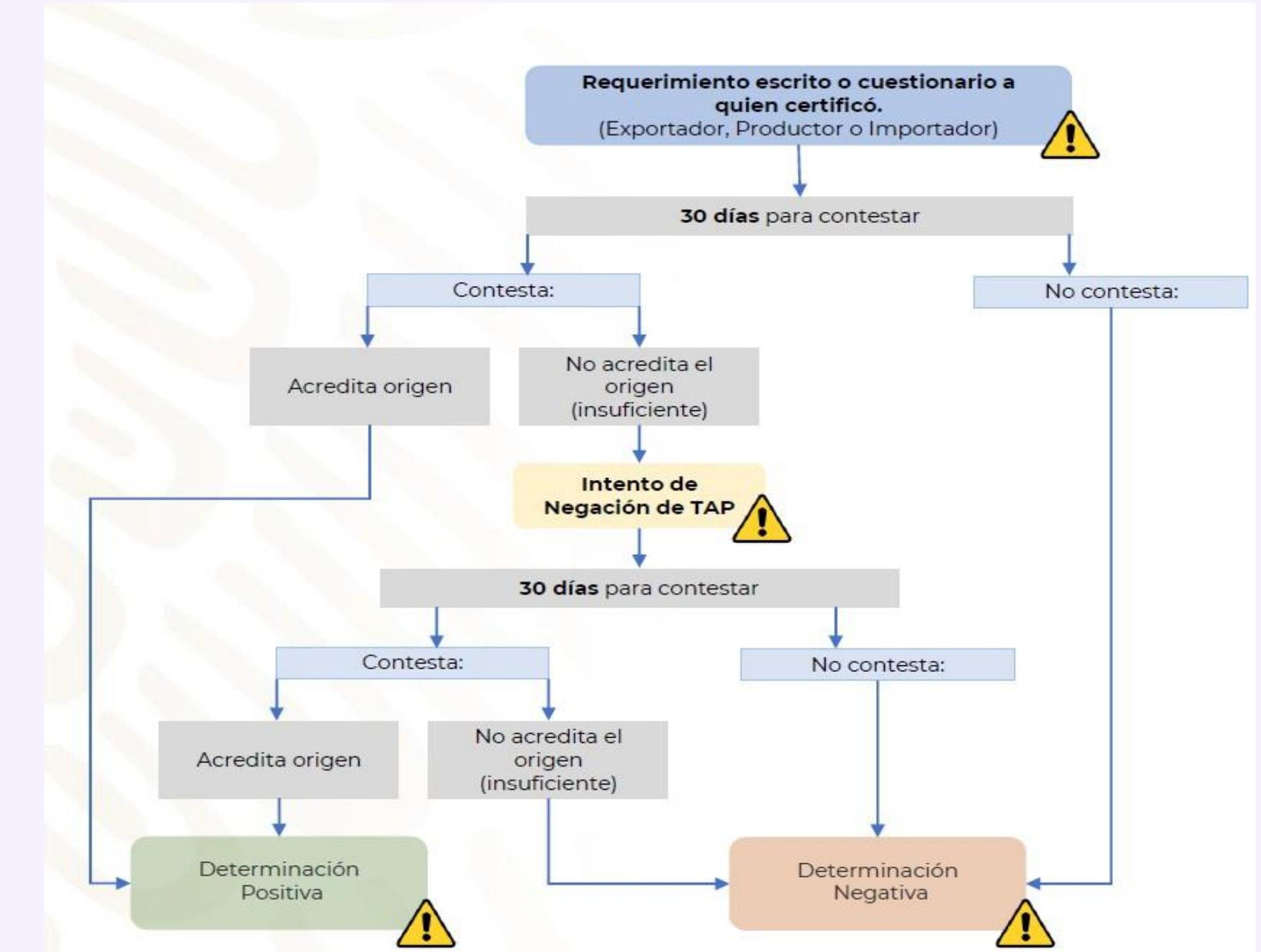
### **Verificaciones de Origen**

Desahogo de procedimientos de verificación de origen a exportadores y productores extranjeros, a fin de determinar si las mercancías que se importaron a territorio nacional bajo trato arancelario preferencial cumplen con las Reglas de Origen establecidas en los mismos.

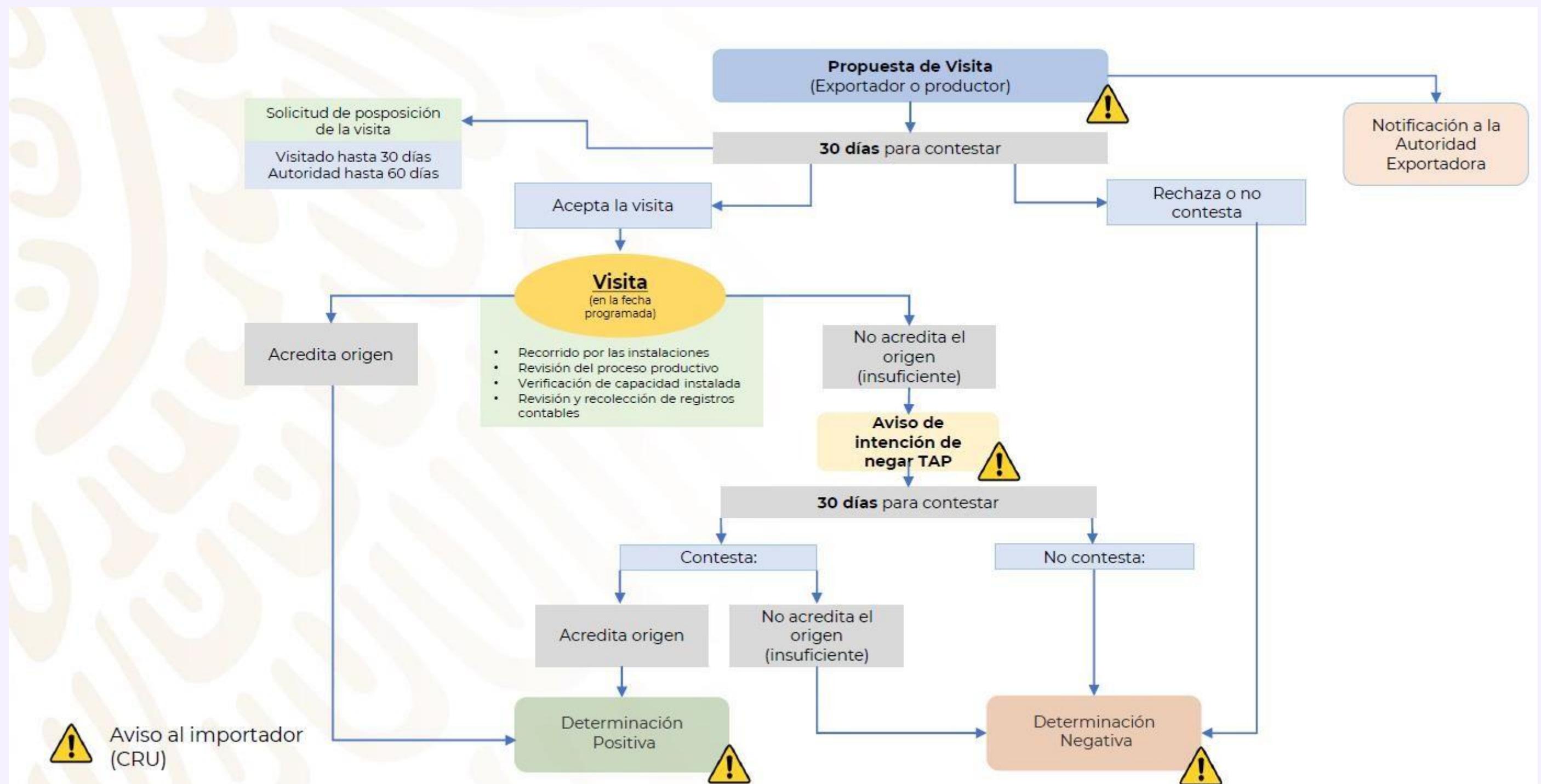
### **Métodos de verificación**

1. Requerimiento escrito o cuestionario.
  - En el TIPAT y T-MEC la Autoridad Aduanera de la Parte Importadora puede iniciar la Verificación de Origen con el importador.
2. Visita de verificación.
3. Visita “sorpresa” –ilícitos-. (Textiles)
4. Solicitud a la Autoridad Aduanera del País exportador

## Requerimiento escrito o cuestionario TMEC



# Visita de Verificación de Origen



## VISITA DE VERIFICACIÓN DE ORIGEN

### Actividades se realizan en la visita de Verificación de Origen

- 1.- Presentación e identificación de los visitadores.
- 2.- Identificación de la persona designada para atender la visita y designación de testigos.
- 3.- Recorrido a las instalaciones de la empresa.
- 4.- Solicitud de información y documentación que acredite el origen de los bienes.
- 5.- Elaboración y firma de minutas haciendo constar los hechos acontecidos.

## VISITA DE VERIFICACIÓN DE ORIGEN

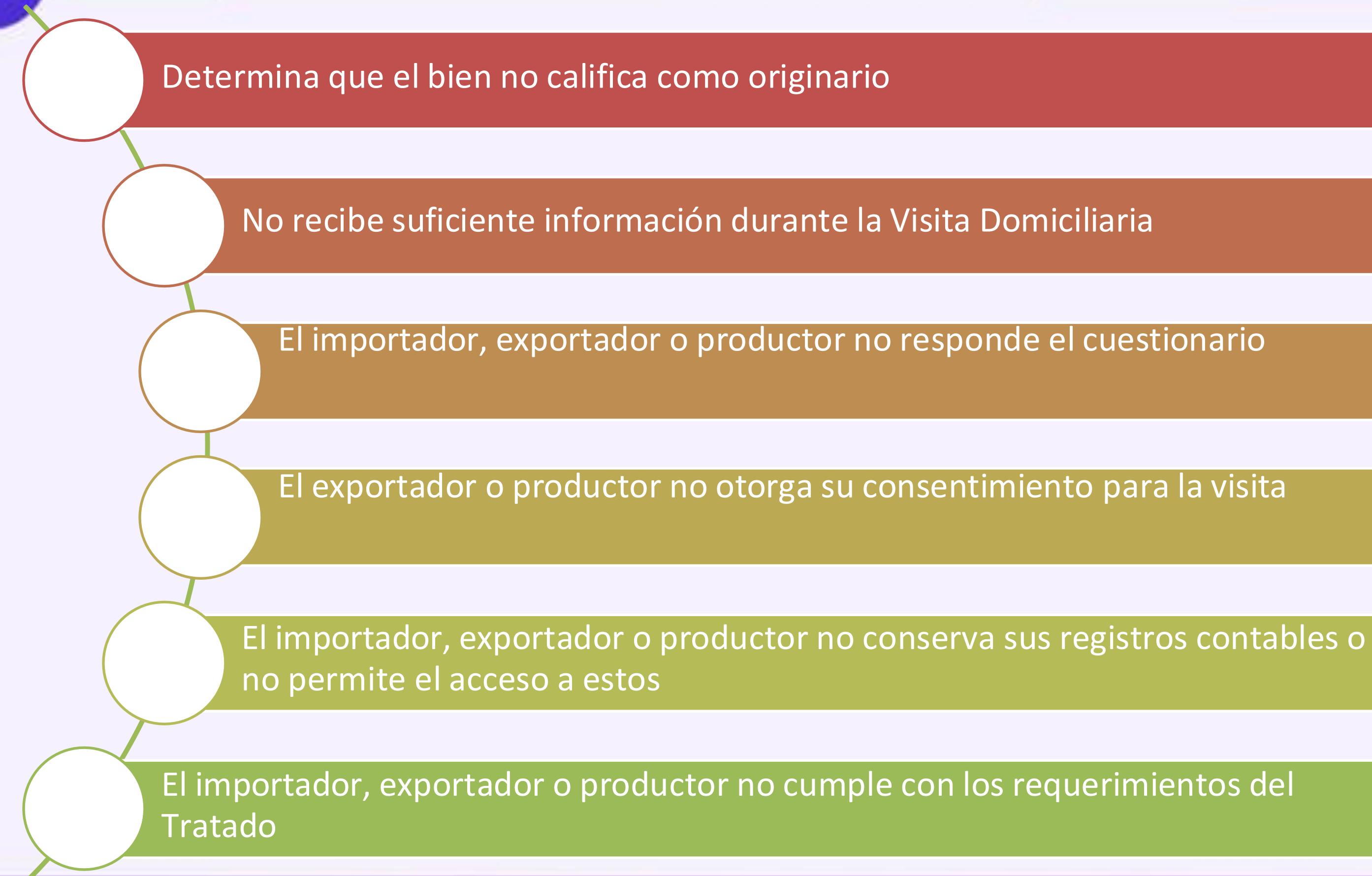
### ¿Cuando emito y firmo un Certificado de Origen, ¿qué información debo conservar y por cuánto tiempo?

La información y plazo que se debe de conservar es establecida en cada tratado y es principalmente la que demuestre que el bien es producido en territorio de una de las partes del tratado, que cumple con las Reglas de Origen del tratado y que es el mismo bien vendido y exportado a México.

### ¿Es posible que un importador que pretenda solicitar trato arancelario preferencial, pueda obtener alguna resolución previa a la importación de los bienes por los cuales se aplicará dicho trato arancelario preferencial?

En Tratados de Libre Comercio suscritos por México, se establece la posibilidad de obtener una resolución anticipada, previo a la importación de los bienes, que permita al importador y a la autoridad corroborar que los mismos son originarios. En tal caso se deberá acudir a la autoridad y a la normatividad aplicable.

*Causales de Negativa  
de Trato Arancelario  
Preferencial*



1. Provide information for the following shipment:
2. Date:
3. Factory document number:
4. Client:
5. Destination:
6. Style/SKU:
7. Item:
8. Quantities:
9. Raw materials selected for review:

## *Request for Information - CBP*

NO. PARTE MATERIA PRIMA	FRACCION ARANCELARIA	ORIGEN	HTS	DESCRIPTION	CANTIDAD BOM	U/M	\$USD

## *Request for Information - CBP*

1. Production records for mattresses including but not limited to production order, job detail report, work in process report, etc.
2. For each material on the BOM, provide the name of the manufacturer/supplier, and the place of manufacturing/country of origin.
3. High quality photographs (front, back, side and end) of the mattresses.
4. Records of the raw materials imported and received by the factory and available for production (importation record and receipt of materials) (for the 5 materials listed above) (if provided by XX)
5. Records of the raw materials purchased and available for production (importation record, purchase order, invoice, payment record, receipt of material) (for the 5 materials listed above) (if purchased by XX)
6. Pictures of the raw materials before production, during production, and final product (for the 5 materials listed).
7. Pedimento, if applicable, and other documents to show direct shipment from MX into the US.
8. Payment from XX to XX for invoice dated XXX.
9. A complete list and types of machinery for the production process, including pictures, technical/descriptive information (e.g., machine manual); and documentation to show receipt of the machinery provided by XX.
10. A synopsis of the manufacturing process for the mattresses and provide a list of the steps of production in order (flowchart).
11. Copy of manufacturer/factory certificates, business license, and/or registration
12. Pictures of the factory inside and out, and factory inspection reports.

## USMCA QUESTIONNAIRE

- 1. Exportador:** Si usted es el exportador, se le envía este cuestionario como exportador del bien importado. Si confió en una Certificación de Origen (CO) o en una representación escrita del productor para preparar su CO, proporcione una copia de la documentación recibida del productor y luego vaya directamente a la Sección IV y complétela. Si confió en su conocimiento del bien, complete el cuestionario adjunto.
- 2. Productor:** Si usted es el productor, se le envía este cuestionario como productor del bien importado.
- Este documento puede completarse con sus respuestas y devolverse a los auditores, ya sea en formato Word o en formato de documento portátil (pdf). Solicitamos que nos proporcione su respuesta completa antes del XXX



**DEPARTMENT OF HOMELAND SECURITY**  
U.S. Customs and Border Protection

**NOTICE OF ACTION**  
19 CFR 152.2

**This is NOT A Notice of Liquidation**

1. Date of this notice (mm-dd-yyyy)  
12/05/2024

13. Explanation (Refer to action letter designations above)

U.S. Customs and Border Protection is in the process of verifying the origin of BELTS pursuant to 19 CFR 182.72. The good was imported into the U.S. on the entry summary listed below and which a claim for USMCA preferential tariff treatment was made.

The verification has revealed that the good does not qualify for preferential tariff treatment pursuant to General Note 11 to the Harmonized Tariff Schedule of the U.S. Specifically, insufficient documentation was provided to substantiate Chapter Rule 2 (5). The BELTS are classified under HTS 6307.90.9891 with a duty rate of 7% ad valorem.

This notice is to inform you that CBP intends on denying the claim for preference under the USMCA after after 30 days of the date of this notice.

You may provide additional information concerning the origin of the good before the issuance of the final determination. If you do not supply additional information, preferential tariff treatment will be denied, and the entry summary will be rate advanced. If you do supply additional information, it will be taken into consideration.

14. CBP Official

15. Team Designation

16. Telephone



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# USMCA QUESTIONNAIRE

## SECTION I: GENERAL INFORMATION

Company [Certifier] Legal Name	Prepared By Name and Title	Contact Email	Contact Number

**Company Structure (e.g., parent, subsidiaries, and other related entities):**

Good(s) Being Verified	Period Covered by Certification of Origin	Model Name/Number	Part Number



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## ***SECTION II: PRODUCTION PROCESS***

Provide a description\* of the production process for the good(s) being verified. Identify all of the facilities used in the production of the good(s) subject to the audit. For each facility, list the company name, address, and type of operation.

Provide all bills of materials (BOMs) for the good(s) subject to audit. For example, costed production, manufacturing, assembling, and engineering.

If there is a formalized process flow or Standard Operating Procedures, please attach with your response.

# USMCA QUESTIONNAIRE

\*Description may be attached to the end of the questionnaire

## USMCA QUESTIONNAIRE

### **SECTION III: CLASSIFICATION FOR THE GOOD(S) SUBJECT TO AUDIT**

<b><u>Description of the Good(s)</u></b>	<b><u>Classification Ruling</u></b>	<b><u>HTS #</u></b>
	<p>If a classification ruling determination on the good(s) has been made, provide the ruling reference and the country that issued it.</p> <p>If none has been made, state "NONE".</p>	<p>Provide the six digit Harmonized Tariff System number at the time of importation (or if the rule of origin of the good requires eight digits, supply eight). Provide supporting documentation (e.g., product specifications, engineering drawings, physical items, laboratory analyses, etc.).</p>

# USMCA QUESTIONNAIRE

## **SECTION IV: NON-ORIGINATING / UNKNOWN MATERIALS OR COMPONENTS**

**Non-Originating** means a good or material which does not meet a rule of origin as described in USMCA Annex 4-B and 19 C.F.R. § 182.61-182.62.

Provide the following information for each **non-originating** material and for materials whose origin is unknown used to produce the good subject to the audit.

<b><u>Description of the Material or Component</u></b>	<b><u>Classification Ruling</u></b>	<b><u>HTS #</u></b>
If none were used, state "NONE".	If a classification ruling determination on the good has been made, provide the ruling reference and the country that issued it.  If none has been made, state "NONE".	Provide the six digit Harmonized Tariff System number at the time of importation (or if the rule of origin of the good requires eight digits, supply eight). Provide supporting documentation.

# USMCA QUESTIONNAIRE

## ***SECTION V: ORIGINATING MATERIALS OR COMPONENTS***

**Originating** means a good or material which meets a rule of origin as described in USMCA Annex 4-B and 19 C.F.R. § 182.61-182.62.

Provide the following information for each **ORIGINATING** material or component used to produce the good(s) subjected to the audit.

<b><u>Description of the Material or Component</u></b>	<b><u>Classification Ruling</u></b>	<b><u>HTS #</u></b>	<b><u>Intermediate Material</u></b>
If none were used, state "NONE".	If a classification ruling determination on the good has been made, provide the ruling reference and the country that issued it. If none has been made, state "NONE".	Provide the six digit Harmonized Tariff System number at the time of importation (or if the rule of origin of the good requires eight digits, supply eight). Provide supporting documentation.	Enter a "Y" if the material is an intermediate material. An Intermediate Material is further described in USMCA Annex 4-B and 19 C.F.R. § 182.61-182.62.

# USMCA QUESTIONNAIRE

## SECTION VI: Questionnaire

*For documentation request below, when possible, please provide documents relating to the following shipment:*

1	Was the de minimis provision (USMCA Article 4.12, 6.1(2), and 6.1(3) and 19 C.F.R. § 182.61-182.62) used to determine whether the good being verified was originating?	<input type="checkbox"/> Yes, provide the percentage which is de minimis: _____% <input type="checkbox"/> No.
2a	Did any of the originating materials used in the production of the good qualify as an originating fungible material under USMCA 4.13 or 19 C.F.R. § 182?	<input type="checkbox"/> Yes, attach a list of the materials that qualified as originating materials under the fungible materials provisions and identify the inventory management method (e.g., last in, first out (LIFO), first in, first out (FIFO), Average, Specific Identification) <input type="checkbox"/> No.
2b	Did the non-originating materials satisfy the product-specific rule of origin set forth in Annex 4-B of the USMCA and General Note 11 of the HTSUS?	<input type="checkbox"/> Yes, provide evidence and explanation <input type="checkbox"/> No, provide explanation
3a	Was the finished good produced in the territory of one or more of the USMCA countries?	<input type="checkbox"/> Yes, provide evidence that the good was finished in the territory of one or more of the USMCA countries <input type="checkbox"/> No, provide explanation

# USMCA QUESTIONNAIRE

3b	<p>Were the good(s) transported to the U.S. without passing through a territory outside of Canada or Mexico?</p> <p>Were the goods shipped directly from <u>XXX</u>. Please explain in detail.</p>	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
4	Does your company receive, purchase, or obtain the finished good from other sources?	<input type="checkbox"/> Yes, identify the supplier(s)'s name and address(es). <input type="checkbox"/> No.
5	Does XXX sell mattresses to related importers/parties who import into the United States? If yes, please list the names of importers/related parties.	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
6	Was the intermediate materials provision used to determine whether the good been verified <u>was originating</u> ?	<input type="checkbox"/> Yes, identify the intermediate materials <input type="checkbox"/> No.
7a	<p>Was a regional value content (RVC) used in ascertaining whether the good being verified originates?</p> <p><i>If NO, proceed to question 8.</i></p>	<input type="checkbox"/> Yes, identify which RVC method was used to qualify for USMCA: <input type="checkbox"/> Transaction Value <input type="checkbox"/> Net Cost <input type="checkbox"/> No.
7b	Identify the estimated qualifying percentage for RVC: <u>  %</u>	Provide supporting documentation.
7c	Does the RVC calculation use accumulation (USMCA Article 4.11 and 19 C.F.R. § 182.61-182.62)?	<input type="checkbox"/> Yes, identify the materials that involve accumulation and provide the name and address of each supplier. <input type="checkbox"/> No.
7d	Provide a breakdown* of the RVC calculation used including any provisions (e.g., Alternative Staging Regime, Election to Average, etc.) applied.	*Breakdown may be attached to the end of the questionnaire.

### Shipping Process

8	Explain your process for shipment of USMCA eligible good(s) to the United States. Address all modes of transportation that are used in the shipment of the good(s) under audit. Provide supporting documentation that <u>illustrate</u> each mode of transportation.	Provide supporting documentation.
9	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit remain under customs control in the territory of a non-Party?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
10	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit undergo an operation outside the USMCA territories other than for unloading, reloading, separating from a bulk shipment, storing, and/or labeling or marking required by the United States?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
11	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit undergone any operation outside the territory of a USMCA country other than any operation necessary to preserve the good in good condition or to transport the good to the United States?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.

**Shipping Process**

8	Explain your process for shipment of USMCA eligible good(s) to the United States. Address all modes of transportation that are used in the shipment of the good(s) under audit. Provide supporting documentation that <u>illustrate</u> each mode of transportation.	Provide supporting documentation.
9	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit remain under customs control in the territory of a non-Party?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
10	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit undergo an operation outside the USMCA territories other than for unloading, reloading, separating from a bulk shipment, storing, and/or labeling or marking required by the United States?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.
11	If the good was transshipped to a non-USMCA country, did the good(s) subject to the audit undergone any operation outside the territory of a USMCA country other than any operation necessary to preserve the good in good condition or to transport the good to the United States?	<input type="checkbox"/> Yes, explain and provide supporting documentation. <input type="checkbox"/> No.

**Other**

12	Explain the relationship between XXX.; and responsibilities of each party.	
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## CUESTIONARIO VERIFICACIÓN DE ORIGEN

EMITIDO POR SAT MEXICO

### SECTION I

### BILL OF MATERIAL

Provide for each good subject to verification a bill of materials showing at least the information indicated below.  
You can use an Excel spreadsheet showing all the information required in this section

GOOD SUBJECT TO VERIFICATION		MATERIALS									
Description and invoice number	HS Classification	Description of the material	Hs Classification of the material	Quantity	Unit Cost	Originating status	Basis of originating status	County of origin	Intermediate material	Contact data of the producer supplier	

## CUESTIONARIO VERIFICACIÓN DE ORIGEN

EMITIDO POR SAT MEXICO

### SECTION III

### 5 SUPPORTING DOCUMENTATION

- If you **produced the imported goods or materials** used to produce the imported godos, provide the information and documentation indicated in subsections **1, 2, 4, 7, 9, 10, 11, 12 and 15 below**.
- If you only **exported** the imported goods and you relied upon your **knowledge** of the goods subject to verification to issue you Certificates of Origin, provide the information and documentation indicated in subsections **1, 2, 3, 5, 6, 8, 10, 12 and 13 below**.
- If you only exported the imported godos and you relied upon **Certificates of Origin or written representations from the producer** of said goods to issue you Certificates of Origin, provide the information and documentation indicated in subsections **1, 2, 3, 5, 6, 8, 13 and 14 below**

1. Legible copy of the **Certificate of Origin** covering the goods subject to verification you issued during the period subject to verification.
2. Legible copy of **the invoices** covering the sales of the goods subject to verification including proof of payment and bill of **lading** and **Excel database** of said invoices indicating unit price, total amount, quantity, item ID, item name and HS number of each good.
3. Legible copy of the invoices covering the **purchase of the goods** subject to verification to your producer/supplier including proof of bill of lading and **Excel database** of said invoices indicating unit price, total amount, quantity, item ID, item name, HS number and country of origin of each good.
4. Legible copy of the **invoices** covering the **purchase of the materials** used to produce the goods subject to verification and/or the **invoices** covering the **manufacturing services** carried out by a third party, including proof of payment and journal entry **corresponding to each purchase**
5. **Contact data** of the producers/suppliers of the **goods subject to verification** (name, address, Tax identification Number, phone **number** and email).
6. Legible copy of your inventory management records for the goods subject to verification.
7. Legible copy of your inventory management records for the **materials** used to produce the goods subject to verification
8. If any of the **goods subject** to verification were imported, copy of the corresponding entry summary forms
9. If any of the materials were imported, copy of the corresponding **entry summary forms**
10. **Detailed description** of the production process indicating the location (country) of each step in the production **process**
11. Any documents proving that the materials were effectively used to produce the goods subject to verification (such as batch process **records**).
12. Definition of the **rules** of origin you applied to consider the goods subject to verification as originating goods (NAFTA, Article 401 401). If the applicable rules of origin contain specific requirements other than charges in tariff classification or RVC, provide documentation proving the compliance with such requirements and Annex **supporting**
13. If an advance ruling was issued with respect to the goods subject to verification or the materials used to produce them, legible **advance ruling** copy of such
14. Legible copy of the Certifications of Origin **or written representations** issued by the **producer** of the goods subject to verification.
15. If applicable, legible copy of the corresponding **Certificates of Origin or written representations** form the producers of the **originating materials**



# Sanciones

## **SANCIÓN DE EXPORTACIÓN DE MERCANCÍA**

### **Será sancionado con mismas penas de contrabando**

*Siendo el exportador o productor de mercancías certifique falsamente su origen, con el objeto de que se importen bajo trato arancelario preferencial a territorio de un país con el que México tenga suscrito un tratado o acuerdo internacional, siempre que el tratado o acuerdo respectivo, prevea la aplicación de sanciones y exista reciprocidad.*

*No se considerará que se comete el delito establecido por esta fracción, cuando el exportador o productor notifique por escrito a la autoridad aduanera y a las personas a las que les hubiere entregado la certificación, de que se presentó un certificado de origen falso, de conformidad con lo dispuesto en los tratados y acuerdos de los que México sea parte.*

**Art. 105, fracción X. CFF**



# Hablemos

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Socio de Comercio Exterior  
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Cel: 3315298771

[www.jadelrio.com](http://www.jadelrio.com)



# HAGAMOS UN TRUEQUE



EN VIVO

6:00 PM  
Hora Centro

4:00 PM  
Hora Noroeste



Escúchanos en:

