

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.

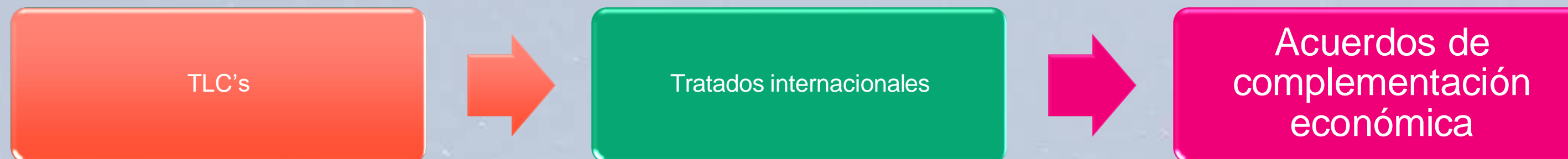
Agenda

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



Marco Jurídico

MARCO JURÍDICO



Constitución política:

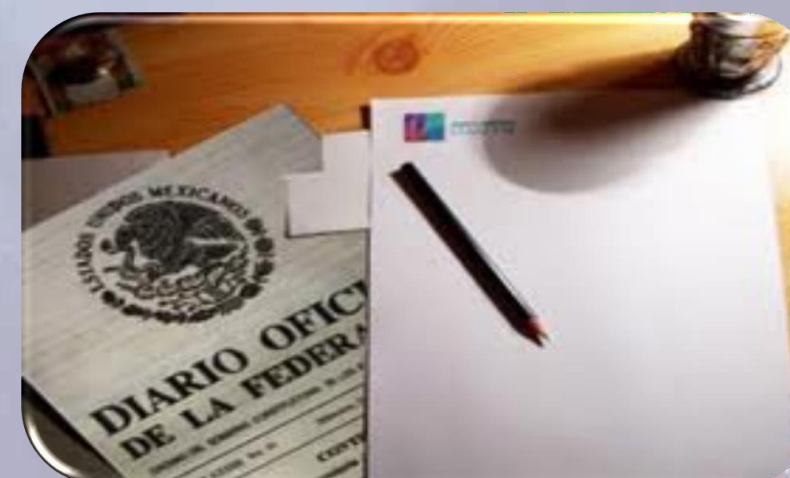
Artículo 133. Serán Ley Suprema de toda la Unión cuando estén de acuerdo con la misma.



Ley Aduanera y Ley
de Comercio Exterior



Reglas en materia
aduanera TLC'S

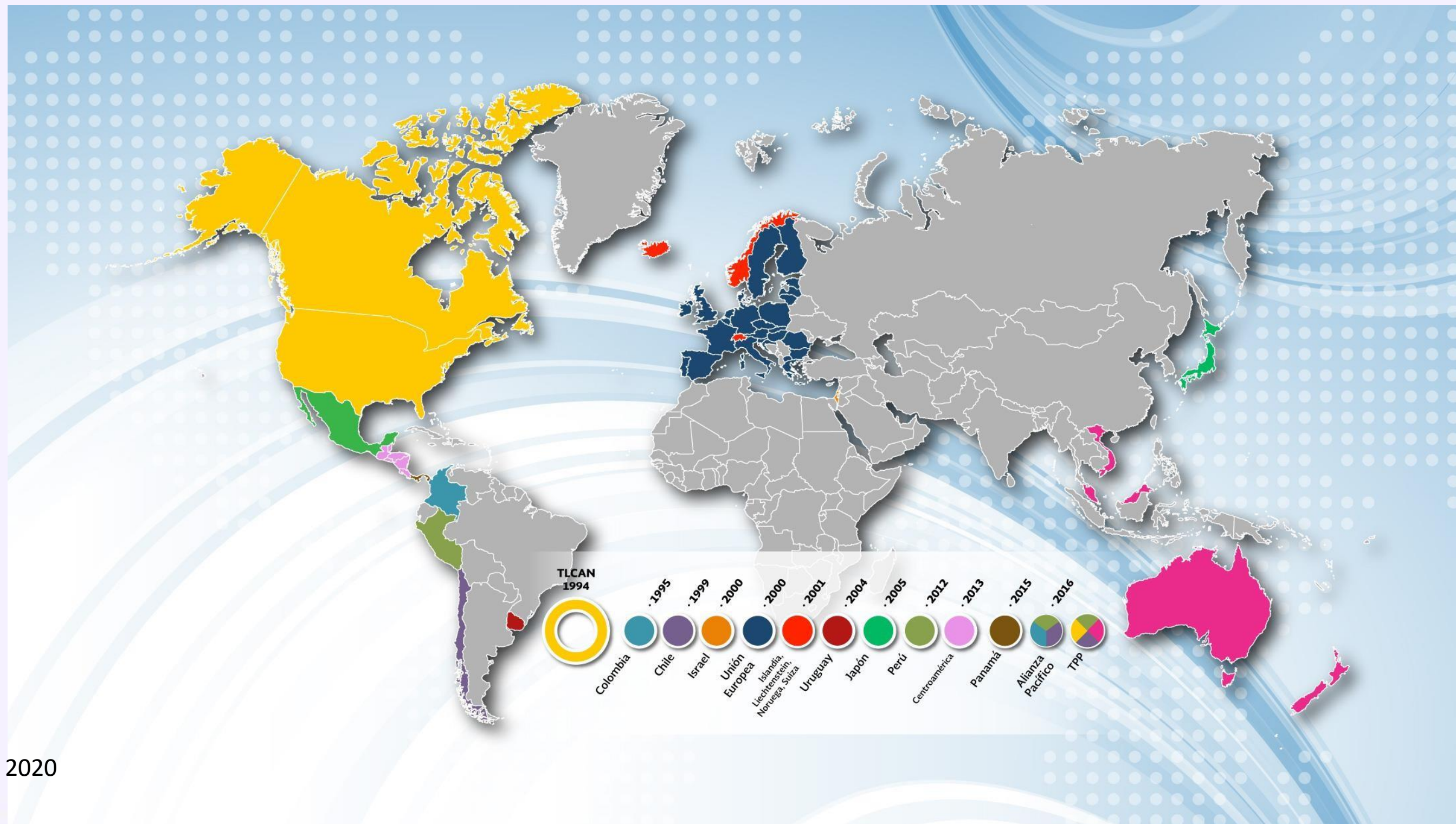


RCGMCE



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 AELC y TLCUE



Criterio de Origen	Generales	TMEC
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



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 confundamento 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 IMPORTADOR
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



Auditoría y documentación

Auditorías por la autoridad

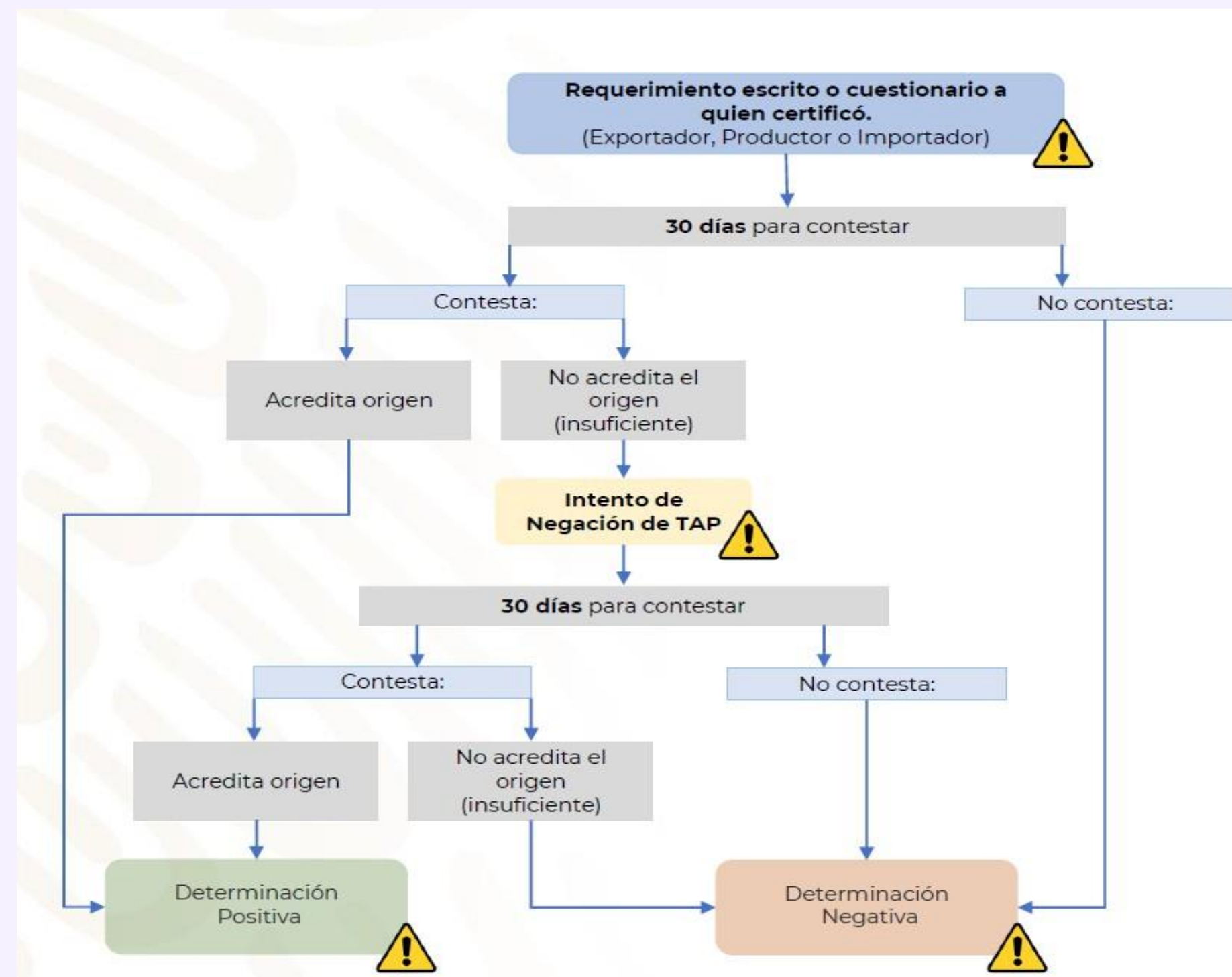
Verificaciones de Origen

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.

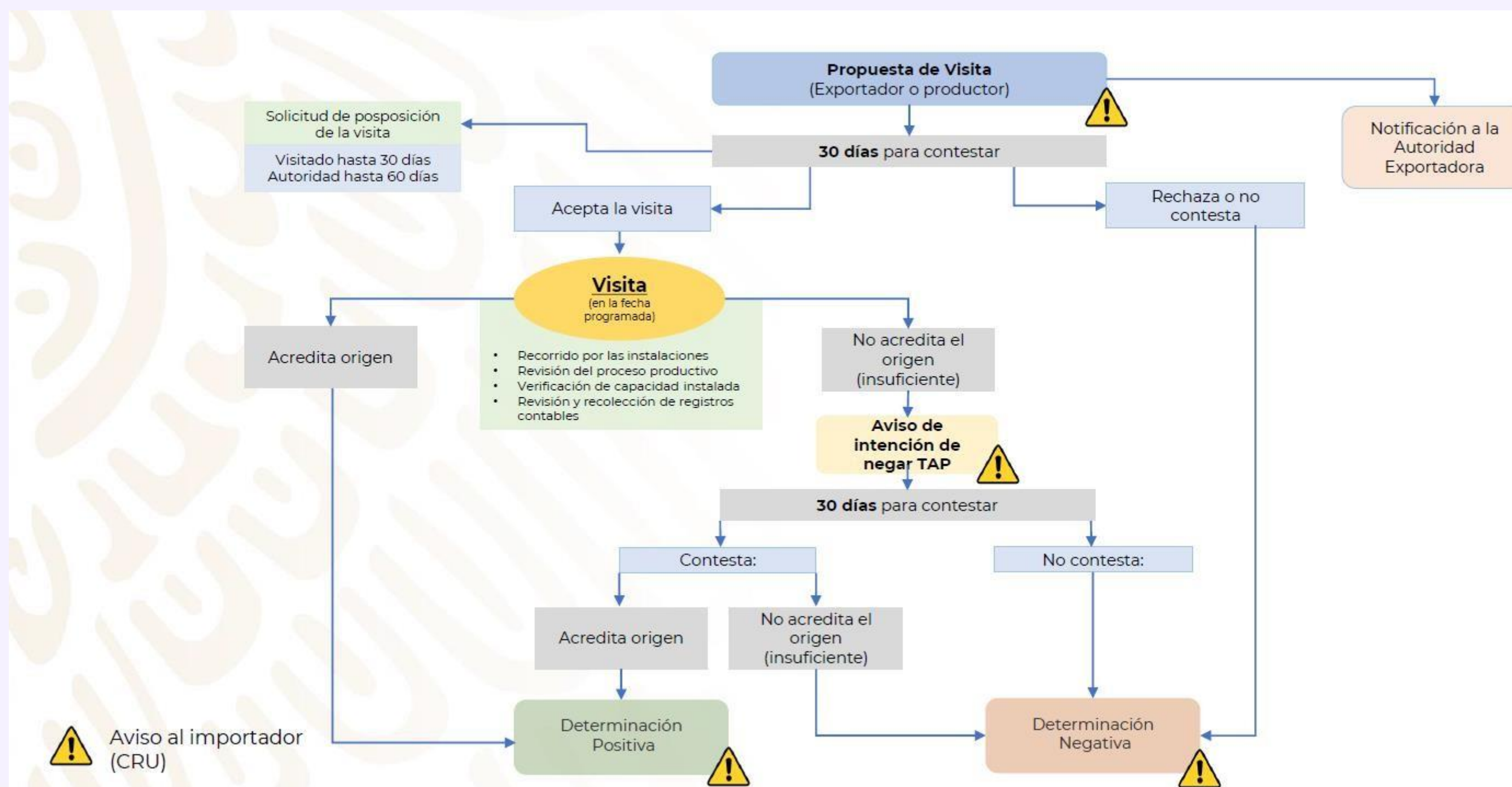
Métodos de verificación

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 T MEC



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 visitantes.
- 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

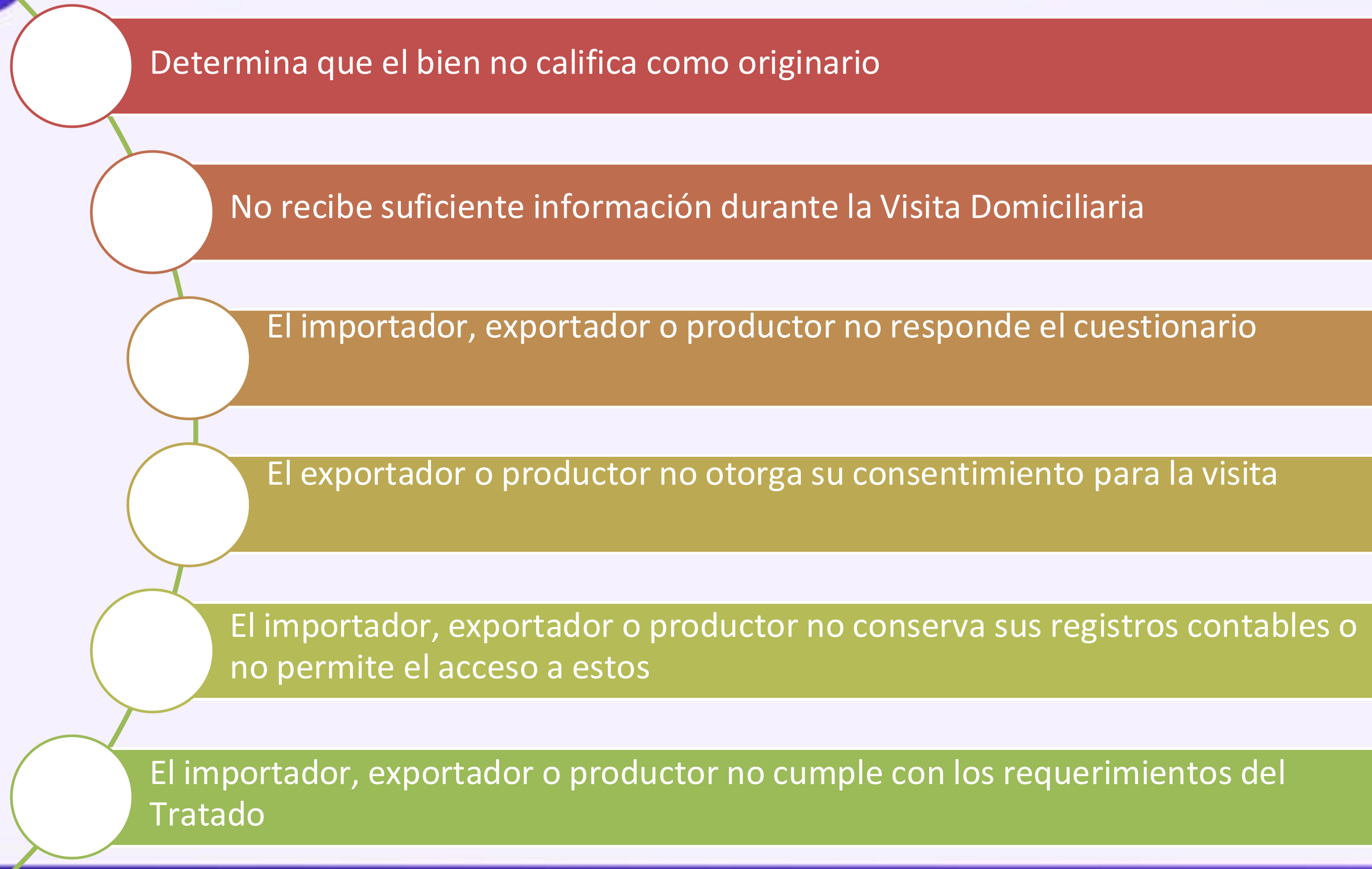
¿Cuando emito y firmo un Certificado de Origen, ¿qué información debo conservar y por cuánto tiempo?

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
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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.
- 3.** 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

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

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.

*Description may be attached to the end of the questionnaire

USMCA QUESTIONNAIRE

USMCA QUESTIONNAIRE

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

<u>Description of the Good(s)</u>	<u>Classification Ruling</u>	<u>HTS #</u>
	<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.

<u>Description of the Material or Component</u>	<u>Classification Ruling</u>	<u>HTS #</u>
If none were used, state "NONE".	<p>If a classification ruling determination on the good has been made, provide the ruling reference and the country that issued it.</p> <p>If none has been made, state "NONE".</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.

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.

<u>Description of the Material or Component</u>	<u>Classification Ruling</u>	<u>HTS #</u>	<u>Intermediate Material</u>
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"/> <u>Net Cost</u> <input type="checkbox"/> No.
7b	Identify the estimated qualifying percentage for RVC: ____%	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	<p>Provide a breakdown* of the RVC calculation used including any provisions (e.g., Alternative Staging Regime, Election to Average, etc.) applied.</p> <p>*Breakdown may be attached to the end of the questionnaire.</p>	

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.

<i>Shipping Process</i>		
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.
<i>Other</i>		
12	Explain the relationship between XXX.; and responsibilities of each party.	

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 Classificati on	Descriptio n of the material	Hs Classificatio n of the material	Quantity	Unit Cost	Originating status	Basis of originatin g status	County of origin	Intermediate material	Contact data of the producer supplier
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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 goods, 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 your 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 goods and you relied upon **Certificates of Origin or written representations from the producer** of said goods to issue your 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 payment and bill of lading and **Excel database** of said invoices indicating unit price, total amount, quantity, item ID, 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 and Annex 401). If the applicable rules of origin contain specific requirements other than charges in tariff classification or RVC, provide supporting documentation proving the compliance with such requirements
13. If an advance ruling was issued with respect to the goods subject to verification or the materials used to produce them, legible copy of such **advance** ruling
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** from 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

Antonio Ávila

Socio de Comercio Exterior

antonio.avila@jadelrio.com

Cel: 3315298771

www.jadelrio.com



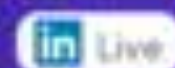
HAGAMOS UN TRUEQUE



EN VIVO

6:00 PM
Hora Centro

4:00 PM
Hora Noroeste



Escúchanos en:



www.tlcasociados.com.mx

www.tlcmagazinemexico.com.mx

