

# Client Alert

International Trade & Litigation Practice Group

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## ITC Investigates Economic Impact of Proposed Modifications to NAFTA Rules of Origin

On March 28, 2013, the U.S. International Trade Commission (ITC) initiated an investigation into the potential economic impact of proposed modifications to the North American Free Trade Agreement (NAFTA).<sup>1</sup> The proposed modifications would amend the rules of origin that are applied to determine if a product qualifies to receive preferential tariff treatment pursuant to NAFTA. A broad range of products are affected, including edible preparations, mineral fuels, chemical products, plastics, rubber articles, cork, glass and glassware, base metals, machinery and parts, rail locomotives, trailers, optical and medical instruments, furniture, toys and games, lighters, and smoking pipes. Public comments on the proposed modifications are due by June 4, 2013.

The proposed modifications are to Annex 401 of the NAFTA. This annex, along with Chapter 4 and Annex 403 of the NAFTA, set forth the changes that products must undergo in Canada, Mexico, or the United States in order to receive the benefits provided by the agreement. In other words, if a product satisfies the applicable rule of origin, it is a NAFTA-originating product that is entitled to preferential tariff treatment. Thus, modifications to these rules could have sweeping effects on the importation of certain products among the three countries under the agreement, potentially reducing tariffs on a wide range of merchandise.

The ITC commenced this investigation in response to a formal request made by the United States Trade Representative (USTR) on March 11, 2013.<sup>2</sup> The proposed modifications result from negotiations that the Office of the USTR recently concluded with its Canadian and Mexican counterparts. Pursuant to Section 202(q) of the NAFTA Implementation Act, the President must seek the advice of the ITC before implementing any negotiated changes to NAFTA. The March 11 request satisfies this requirement.

The ITC intends to finalize its findings for transmission to the USTR by November 12, 2013. Public hearings will not be held on this matter. Thus, the only way for interested parties to comment on the proposed amendments is through written submission.

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*This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.*

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<sup>1</sup> The ITC initiation notice is available at

[http://www.usitc.gov/research\\_and\\_analysis/ongoing/documents/103\\_027\\_notice03282013sg1.pdf](http://www.usitc.gov/research_and_analysis/ongoing/documents/103_027_notice03282013sg1.pdf).

<sup>2</sup> The USTR request is available at

[http://www.usitc.gov/research\\_and\\_analysis/ongoing/documents/NAFTA\\_rules\\_of\\_origin\\_request.pdf](http://www.usitc.gov/research_and_analysis/ongoing/documents/NAFTA_rules_of_origin_request.pdf).