Intelligence MEMOS

From: Jon Johnson

To: Auto Trade Observers

Date: August 13, 2024

Re: US Ducks Trade Ruling and CUSMA Integrity Takes a Hit

In December 2022, the Canada-US-Mexico Agreement dispute resolution panel in *United States – Automotive Rules of Origin* released its **decision** finding in favour of Canada and Mexico.

The agreement requires each major part (engine, transmission, body and chassis, axle, suspension system, steering system, electric vehicle battery) of a light-duty vehicle (essentially passenger cars) must qualify as "originating" for the entire vehicle to qualify and be eligible for duty-free treatment.

However, under the deal's rules, a major part, such as an engine, can qualify as "originating" even though it contains some non-originating components. If the engine qualifies as "originating," the value of those non-originating components is "rolled up" into the value of the engine and can be disregarded.

The text is absolutely clear on application of this roll-up, which is reiterated in the trilaterally agreed Uniform Regulations, and which have the force of law in all three CUSMA countries.

The five-person panel accepted this interpretation and unanimously found in favour of Canada and Mexico, and against the US.

Notwithstanding that decision, the office of US Trade Representative Katherine Tai continues to insist that the value of such non-originating components be counted against the producer.

The US argument amounted to something like "we couldn't possibly have agreed to these rules" because in the end they would result in significantly higher than anticipated non-CUSMA content in these core parts counting as originating – eligible for zero-tariffs between the three countries – than US negotiators had counted on.

In the end, and especially given the June 2026 review of CUSMA, it is this "realpolitik" question, aimed at directing more economic activity to US plants, even at the risk of less competitiveness for the North American auto sector as a whole, that informs the US approach. As Ambassador Tai said last September, "I think that the conversation within the USMCA on autos has to be something larger than what has happened in this dispute."

The parties have consulted about potential resolutions, her office said in in its annual **report** to Congress last month, but had not reached an agreement. The US insisted that a resolution should benefit all three CUSMA parties and their shared goal of enhancing North American production and employment, but that data adduced during the panel proceeding suggested that the Mexican and Canadian interpretation could mean as much as 20 percent less North American content per vehicle imported into the US from Canada and (mainly) Mexico than the US interpretation. That seems to be the crux of the matter for the US side.

The US government under former President Trump insisted that NAFTA be renegotiated and CUSMA – USMCA in the US and ACEUM in Mexico – was the result, and is now an integral part of the rules agreed among the US, Canada, and Mexico, the stability of which is key to industry making cost-effective decisions.

The US side gets its opportunity to renegotiate again beginning July 1, 2026, including the provisions respecting roll-up of the value of non-originating components in originating "core parts." This is probably why Ambassador Tai in the end suggests a solution can be reached, rather than saying that the US rejects the panel's conclusions.

In the meantime, the US weakens its credibility as a good-faith bargaining partner with what appears to be non-compliance with a clear ruling by a dispute resolution panel formed under an agreement that the US was the driving force in establishing.

Canada should seek to demonstrate that the existing flexibility in CUSMA rules of origin has helped maintain the global competitiveness of North America's auto industry, from which ultimately US plants, US workers and US consumers benefit.

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