



Overview: USMCA and Treatment of Used Vehicles

On July 1, 2020, the United States-Mexico-Canada Agreement (USMCA) entered into force, replacing the North American Free Trade Agreement (NAFTA). The USMCA rules of origin apply to all automotive goods imported from Canada or Mexico, including new and used vehicles, entered on or after July 1, 2020. The USMCA and the USMCA Implementation Act do not exempt U.S. imports of used vehicles from these rules of origin, regardless of when the vehicle was produced. *See* USMCA Implementation Act, (Pub. L. 116–113, January 29, 2020) at sec. 202A (19 U.S.C. § 4532); and relevant CBP regulations for specific vehicle certification requirements.

Significant Changes in USMCA

Eligibility of Used Vehicles for USMCA Preferential Treatment

In order to qualify for USMCA preference, all vehicles – new and used – must meet the USMCA rules of origin for automotive goods, including regional value content (RVC), labor value content (LVC), steel purchasing, and aluminum purchasing requirements. Under the USMCA Implementation Act, there are three vehicle certifications relating to these requirements that must be provided by the producer of the covered vehicle. Vehicles produced prior to 2020 are not likely to meet all USMCA rules of origin. Vehicles produced on or after July 1, 2020 may meet the USMCA rules of origin. An exporter or importer of record/owner, who is not the producer, may not have the necessary documentation to make a preference claim unless that party was provided the certifications from the producer. If these documents are not made available upon request, then applicable duties and fees will be collected on either personal or commercial importations of used vehicles from Canada and Mexico. Furthermore, all preference claims are subject to verification. Making a false claim may result in the issuance of penalties.

Alternative Means to Duty-Free Treatment

U.S. Goods Returned (Chapter 98)

Section 904(b) of the Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114-125, February 24, 2016) amended subheading 9801.00.10 of the Harmonized Tariff Schedule of the United States (HTSUS) to include any products that are returned within three years after having been exported. Previously, subheading 9801.00.10, HTSUS, only applied to products of the United States. Subheading 9801.00.10, HTSUS, now provides for the duty-free treatment of:

- Products of the United States when returned after having been exported, or any other products when returned within three years after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad.

Under this provision, qualifying used cars that are being returned may be eligible for duty-free treatment. This provision may be applied to either personal or commercial importations of used vehicles. The burden of substantiating eligibility lies with the importer/owner. *See* HQ H314176 (March 18, 2021).