

USMCA Implementation Set for July 1; U.S. Customs & Border Protection Releases Interim Regulatory Guidance

April 27, 2020

On April 24, 2020, the Office of the U.S. Trade Representative (USTR) announced that the United States has completed the final steps required for the new U.S.-Mexico-Canada Agreement (USMCA) to come into force. Specifically, the United States notified Canada and Mexico that it was ready to implement the agreement. Canada and Mexico had previously certified their readiness to the United States, and USTR communicated that message to Congress on April 24 as well.

Pursuant to the USMCA's terms, the new agreement will come into force on the first day of the third month after all three countries certify their readiness for implementation. Given USTR's April 24 announcement, the USMCA will accordingly replace the twenty-six-year-old North American Free Trade Agreement (NAFTA) on July 1, 2020.

Prior to USTR's announcement, U.S. Customs & Border Protection (CBP) released a 46-page set of Interim Implementing Instructions. These instructions are meant to provide importers and other interested parties with guidance on claiming the benefits of the USMCA while CBP and other federal agencies complete the process of updating their current regulations to reflect differences between NAFTA and the USMCA.

That said, in terms of general operation, the USMCA is similar to NAFTA, and retains many features of the original agreement, including the NAFTA marking rules, requirements for making post-entry claims, certification and recordkeeping requirements. Like

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International Trade

NAFTA, the USMCA permits duty-free importation between North American countries of goods deemed “originating” in Canada, Mexico, or the United States. Similar to NAFTA, the USMCA provides product-specific rules for determining whether goods are originating, based primarily on whether they undergo particular shifts in tariff classification by reason of processing in North America, or reflect a certain amount of value added by North American materials and labor.

The product-specific rules in place under USMCA, however, have in many cases been updated to reflect changing patterns of trade, and the experience of the three North American countries in using NAFTA’s origin rules. One particular area of change is the USMCA rules of origin for automotive goods. These rules have been substantially overhauled to promote North American supply chains for automotive manufacturing. They do away with NAFTA’s “tracing” system for automotive parts, instead of requiring automotive producers and importers of certain automotive parts to comply with enhanced requirements regarding labor value, steel and aluminum inputs, and regional value content. As a result, and as indicated in CBP’s interim instructions, federal agencies including CBP and the U.S. Department of Labor are in the process of creating new regulations to enforce USMCA’s enhanced commitments regarding automotive supply chains.