

(j) Packing materials and containers for shipment

Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) Indirect materials

An indirect material shall be treated as an originating material without regard to where it is produced.

(l) Transit and transshipment

A good that has undergone production necessary to qualify as an originating good under subsection (c) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territory of a USMCA country, other than—

(A) unloading, reloading, separation from a bulk shipment, storing, labeling, or marking, as required by a USMCA country; or

(B) any other operation necessary to preserve the good in good condition or to transport the good to the territory of the importing USMCA country; or

(2) does not remain under the control of customs authorities in a country other than a USMCA country.

(m) Goods classifiable as goods put up in sets**(1) Goods other than textile or apparel goods**

Notwithstanding the rules set forth in Annex 4-B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(2) Textile or apparel goods

Notwithstanding the rules set forth in Annex 4-B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(n) Nonqualifying operations

A good shall not be considered to be an originating good merely by reason of—

(1) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(2) any production or pricing practice with respect to which it may be demonstrated, by a preponderance of the evidence, that the object of the practice was to circumvent this section.

(o) Effective date**(1) In general**

This section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) Transition from NAFTA treatment

Section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332),² as in effect on the day before the date on which the USMCA enters into force, shall continue to apply on and after that date with respect to a good entered for consumption, or withdrawn from warehouse for consumption, before that date.

(Pub. L. 116-113, title II, §202, Jan. 29, 2020, 134 Stat. 20; Pub. L. 116-260, div. O, title VI, §601(b), Dec. 27, 2020, 134 Stat. 2150.)

Editorial Notes

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States or HTS, referred to in subsecs. (a)(19), (b)(1), (2), (c)(1)(D)(ii), and (m), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This Act, referred to in subsec. (c)(1), is Pub. L. 116-113, Jan. 29, 2020, 134 Stat. 11, known as the United States-Mexico-Canada Agreement Implementation Act. For complete classification of this Act to the Code, see Short Title note set out under section 4501 of this title and Tables.

Act of June 18, 1934, referred to in subsec. (c)(3), is act June 18, 1934, ch. 590, 48 Stat. 998, popularly known as the Foreign Trade Zones Act, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 81a of this title and Tables.

Section 202 of the North American Free Trade Agreement Implementation Act, referred to in subsec. (o)(2), is section 202 of Pub. L. 103-183, title II, Dec. 8, 1993, 107 Stat. 2069, which was classified to section 3332 of this title prior to repeal by Pub. L. 116-113, title VI, §601, Jan. 29, 2020, 134 Stat. 78, effective on the date the USMCA entered into force (July 1, 2020).

AMENDMENTS

2020—Subsec. (c)(3). Pub. L. 116-260, §601(b)(1), added par. (3).

Subsec. (f)(2)(E). Pub. L. 116-260, §601(b)(2), substituted “any of headings 1501 through 1508” for “heading 1507, 1508.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 effective July 1, 2020, see section 601(h) of div. O of Pub. L. 116-260, set out as a note under section 81c of this title.

§ 4532. Special rules for automotive goods**(a) Definitions**

In this section:

(1) Alternative staging regime

The term “alternative staging regime” means the application, pursuant to subsection (d), of the requirements of article 8 of the automotive appendix to the production of covered vehicles to allow producers of such vehi-

² See References in Text note below.

cles to bring such production into compliance with the requirements of articles 2 through 7 of that appendix.

(2) Alternative staging regime period

The term “alternative staging regime period” means the period during which the alternative staging regime is in effect.

(3) Automotive appendix

The term “automotive appendix” means the Appendix to Annex 4–B of the USMCA (relating to the product-specific rules of origin for automotive goods).

(4) Automotive good

The term “automotive good” means—

- (A) a covered vehicle; or
- (B) a part, component, or material listed in table A.1, A.2, B, C, D, or E of the automotive appendix.

(5) Automotive rules of origin

The term “automotive rules of origin” means the rules of origin for automotive goods set forth in the automotive appendix.

(6) Commissioner

The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(7) Covered vehicle

The term “covered vehicle” means a passenger vehicle, light truck, or heavy truck.

(8) Interagency committee

The term “interagency committee” means the interagency committee established under subsection (b)(1).

(9) Passenger vehicle; light truck; heavy truck

The terms “passenger vehicle”, “light truck”, and “heavy truck” have the meanings given those terms in article 1 of the automotive appendix.

(10) USMCA country

The term “USMCA country” means the United States, Canada, or Mexico for such time as the USMCA is in force with respect to Canada or Mexico, and the United States applies the USMCA to Canada or Mexico.

(b) Establishment of interagency committee

(1) In general

Not later than 30 days after January 29, 2020, the President shall establish an interagency committee—

- (A) to provide advice, as appropriate, on the implementation, enforcement, and modification of provisions of the USMCA that relate to automotive goods, including the alternative staging regime; and
- (B) to review the operation of the USMCA with respect to trade in automotive goods, including—
 - (i) the economic effects of the automotive rules of origin on the United States economy, workers, and consumers; and
 - (ii) the impact of new technology on such rules of origin.

(2) Members

The members of the interagency committee shall be the following:

- (A) The Trade Representative.
- (B) The Secretary of Commerce.
- (C) The Commissioner.
- (D) The Secretary of Labor.
- (E) The Chair of the International Trade Commission.

(F) Any other members determined to be necessary by the Trade Representative.

(3) Chair

The chair of the interagency committee shall be the Trade Representative.

(4) Use of information

(A) Information sharing

Notwithstanding any other provision of law, the members of the interagency committee may exchange information for purposes of carrying out this section.

(B) Confidentiality of information

The interagency committee and any Federal agency represented on the interagency committee may not disclose to the public any confidential documents or information received in the course of carrying out this section, except information aggregated to preserve confidentiality and used in the reports described in subsection (g).

(c) Certification requirements

(1) Certification relating to labor value content requirements

(A) In general

A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle—

- (i) provides a certification to the Commissioner that the production of covered vehicles by the producer meets the labor value content requirements, including the high-wage material and manufacturing expenditures, high-wage technology expenditures, and high-wage assembly expenditures, as set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime, articles 7 and 8 of that appendix, and includes the calculations of the producer related to the labor value content requirements; and
- (ii) has information on record to support those calculations.

(B) Implementation

For purposes of meeting the requirements under subparagraph (A)—

- (i) the Secretary of Labor, in consultation with the Commissioner, shall ensure that the certification of a producer under subparagraph (A)(i) does not contain omissions or errors before the certification is considered properly filed; and
- (ii) a calculation described in subparagraph (A)(i) based on a producer’s preceding fiscal or calendar year is valid for the producer’s subsequent fiscal or calendar year, as the case may be, as set forth in articles 7 and 8 of the automotive appendix.

(C) Regulations required

The Secretary of the Treasury, in consultation with the Secretary of Labor, shall

prescribe regulations to carry out this paragraph, including regulations setting forth the procedures and requirements for a producer of covered vehicles to establish that the producer meets the labor value content requirements for preferential tariff treatment.

(2) Certification relating to steel and aluminum purchase requirements

(A) In general

A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle—

(i) provides a certification to the Commissioner that the production of covered vehicles by the producer meets the steel and aluminum purchase requirements set forth in article 6 of the automotive appendix or, if the producer is subject to the alternative staging regime, articles 6 and 8 of that appendix; and

(ii) has information on record to support the calculations relied on for the certification.

(B) Implementation

For purposes of meeting the requirements under subparagraph (A)—

(i) the Commissioner shall ensure that the certification of a producer under subparagraph (A)(i) does not contain omissions or errors before the certification is considered properly filed; and

(ii) a calculation described in subparagraph (A)(ii) based on a producer's preceding fiscal or calendar year is valid for the producer's subsequent fiscal or calendar year, as the case may be, as set forth in articles 6 and 8 of the automotive appendix.

(C) Regulations required

The Secretary of the Treasury shall prescribe regulations to carry out this paragraph, including regulations setting forth the procedures and requirements for a producer of covered vehicles to establish that the producer meets the steel and aluminum purchase requirements for preferential tariff treatment.

(d) Alternative staging regime

(1) Publication of requirements

Not later than 90 days after January 29, 2020, the Trade Representative, in consultation with the interagency committee, shall publish in the Federal Register requirements, procedures, and guidance required to implement the alternative staging regime, including with respect to the following:

(A) The procedures, calculation methodology, timeframe, specific regional value content thresholds, and other minimum requirements, consistent with article 8 of the automotive appendix, with which a producer of covered vehicles subject to the alternative staging regime is required to comply during the alternative staging regime period for such vehicles to be eligible for preferential tariff treatment pursuant to the alternative staging regime.

(B) The date by which requests for the alternative staging regime are required to be submitted.

(C) The information a producer of passenger vehicles or light trucks is required to provide, in the producer's request to use the alternative staging regime, to demonstrate the actions that the producer will take to be prepared to meet all the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired, including the following:

(i) A statement identifying which of the requirements set forth in articles 2 through 7 of the automotive appendix that the producer expects it will be unable to meet upon entry into force of the USMCA based on current business plans.

(ii) A statement indicating whether the passenger vehicles or light trucks for which the producer seeks to use the alternative staging regime account for 10 percent or less, or more than 10 percent, of the total production of passenger vehicles or light trucks, as the case may be, in USMCA countries by the producer during the 12-month period preceding the date on which the USMCA enters into force, or the average of such production during the 36-month period preceding that date, whichever is greater.

(iii) In the case of a producer that seeks to use the alternative staging regime for more than 10 percent of the producer's total production of passenger vehicles or light trucks, as the case may be, in USMCA countries—

(I) a detailed and credible plan describing with specificity the actions the producer intends to take to bring production of the passenger vehicles or light trucks, as the case may be, into compliance with the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period expires; and

(II) a statement indicating the time period for which the producer is requesting to use the alternative staging regime, if that time period is greater than 5 years after the USMCA enters into force.

(D) The procedures for accepting and reviewing requests for the alternative staging regime, including that the Trade Representative will—

(i) notify a producer of any deficiencies in the request of the producer that would result in a denial of the request not later than 30 days after the request is submitted; and

(ii) provide producers the opportunity to submit supplemental information.

(E) The criteria the Trade Representative, in consultation with the interagency committee, will consider when determining whether to approve a request for the alternative staging regime. Such criteria shall only include elements necessary for the pro-

ducer to demonstrate the producer's ability to meet the requirements specified in subparagraphs (A) and (B). The criteria shall also describe the information to meet those requirements in sufficient detail to allow the producer to identify the information necessary to complete a request for the alternative staging regime.

(F) The opportunity for a producer described in subparagraph (C)(iii) to modify the producer's request for the alternative staging regime.

(2) Review of requests for alternative staging regime

(A) In general

In reviewing the request of a producer of passenger vehicles or light trucks for the alternative staging regime, the Trade Representative, in consultation with the interagency committee, shall determine—

(i) whether the request covers 10 percent or less, or more than 10 percent, of the production of passenger vehicles or light trucks in USMCA countries by the producer; and

(ii) whether the producer has identified with specificity which of the requirements set forth in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans.

(B) Approval of alternative staging regime for passenger vehicle or light truck production not exceeding 10 percent of North American production

The Trade Representative shall authorize the use of the alternative staging regime if the Trade Representative, in consultation with the interagency committee, determines that—

(i) the request for the alternative staging regime covers passenger vehicles or light trucks that do not exceed 10 percent of the production of passenger vehicles or lights¹ trucks, as the case may be, in USMCA countries by the producer; and

(ii) the producer has identified with specificity which of the requirements set forth in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans.

(C) Approval of alternative staging regime for passenger vehicle or light truck production exceeding 10 percent of North American production

The Trade Representative shall authorize the use of the alternative staging regime if the Trade Representative, in consultation with the interagency committee, determines that—

(i) the request for the alternative staging regime covers more than 10 percent of the production of passenger vehicles or lights¹ trucks, as the case may be, in USMCA countries by the producer;

(ii) the producer has identified with specificity which of the requirements set forth

in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans; and

(iii) the detailed and credible plan of the producer submitted under paragraph (1)(C)(iii) is based on substantial evidence and reasonably calculated to bring the production of the passenger vehicles or light trucks, as the case may be, into compliance with the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(3) Procedures related to reviewing and approving requests

(A) Deadline for review

Not later than 120 days after receiving a request of a producer for the alternative staging regime, the Trade Representative, in consultation with the interagency committee, shall—

(i) review the request;

(ii) make a determination with respect to whether to authorize the use of the alternative staging regime; and

(iii) provide to each producer a response in writing stating whether the producer may use the alternative staging regime.

(B) Establishment of a public list

The Trade Representative shall maintain, and update as necessary, a public list of the producers of covered vehicles that have been authorized to use the alternative staging regime.

(C) Reporting

Before a determination is made with respect to whether to authorize the use of the alternative staging regime, the Trade Representative shall provide to the appropriate congressional committees a summary of requests for the alternative staging regime.

(4) Alternative staging regime review and modification

(A) Material changes to circumstances

(i) Notification

If the request of a producer to use the alternative staging regime for more than 10 percent of the total production of passenger vehicles or light trucks, as the case may be, in USMCA countries by the producer has been granted, the producer shall notify the Trade Representative and the interagency committee of any material changes to the information contained in the request, including any supplemental information relating to that request, and of any material changes to circumstances, that will affect the producer's ability to meet any of the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(ii) Requests for modification of plans

(I) In general

A producer that submits a notification under clause (i) with respect to a change

¹ So in original. Probably should be "light".

described in that clause may submit to the Trade Representative and the interagency committee a request for modification of its plan.

(II) Determination regarding modification

Not later than 90 days after receiving a request submitted under subclause (I), the Trade Representative, in consultation with the interagency committee, shall—

- (aa) review the request;
- (bb) make a determination with respect to whether the modified plan is based on substantial evidence and reasonably calculated to ensure that the producer will still be able to meet the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired;
- (cc) if the Trade Representative makes an affirmative determination under item (bb), approve the modified plan; and
- (dd) notify the producer in writing of the determination.

(iii) Inability to meet requirements

If the Trade Representative, in consultation with the interagency committee, determines that the information provided by a producer under clause (i) demonstrates that the producer will no longer be able to meet the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired, the Trade Representative shall notify the producer in writing, and no claim for preferential tariff treatment may be made, on or after the date of the determination, with respect to a covered vehicle of the producer pursuant to the alternative staging regime.

(5) Failure to meet requirements for alternative staging regime

(A) In general

If, at any time, the Trade Representative, in consultation with the interagency committee, makes a determination described in subparagraph (B) with respect to a producer of covered vehicles subject to the alternative staging regime—

- (i) any claim for preferential tariff treatment under the alternative staging regime for any covered vehicle of that producer shall be considered invalid; and
- (ii) notwithstanding the finality of a liquidation of an entry, the importer of any covered vehicle of that producer shall be liable for the duties, taxes, and fees that would have been applicable to that vehicle if preferential tariff treatment pursuant to the alternative staging regime had not applied when the vehicle was entered for consumption, or withdrawn from warehouse for consumption, plus interest assessed on or after the date of entry and before the date of the determination.

(B) Determination described

A determination described in this subparagraph is a determination that a producer of covered vehicles subject to the alternative staging regime—

- (i) has failed to take the steps set forth in the producer's request for the alternative staging regime and, as a result of that failure, the producer will no longer be able to meet the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired;
- (ii) has provided false or misleading information in the producer's request; or
- (iii) in the case of a producer authorized to use the alternative staging regime for more than 10 percent of the total production of passenger vehicles or light trucks in USMCA countries by the producer, has failed to notify the Trade Representative under paragraph (4)(A) of material changes to circumstances that will prevent the producer from meeting any of the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(e) Verification of labor value content requirements

(1) In general

As part of a verification conducted under section 4533 of this title, the Secretary of the Treasury, in conjunction with the Secretary of Labor, may conduct a verification of whether a covered vehicle complies with the labor value content requirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime under subsection (d), articles 7 and 8 of that appendix.

(2) Role of Secretary of Labor

In cooperation with the Secretary of the Treasury, the Secretary of Labor shall participate in any verification conducted under paragraph (1) by verifying whether the production of covered vehicles by a producer meets the high-wage components of the labor value content requirements, including the wage component of the high-wage material and manufacturing expenditures, the high-wage technology expenditures, and the high-wage assembly expenditures, within the meaning given those terms in article 7 of that appendix.

(3) Role of Secretary of the Treasury

The Secretary of the Treasury shall participate in any verification conducted under paragraph (1) by verifying—

- (A) the components of the labor value content requirements not covered by paragraph (2), including the annual purchase value and cost components of the high-wage material and manufacturing expenditures, within the meaning given those terms in article 7 of that appendix; and
- (B) whether the producer has met the labor value content requirements.

(4) Actions by Secretary of Labor

(A) In general

In participating in a verification conducted under paragraph (1), the Secretary of

Labor shall assist the Secretary of the Treasury to do the following:

(i) Examine, or cause to be examined, upon reasonable notice, any record (including any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity.

(ii) Request information from any officer, employee, or agent of a producer of automotive goods, as necessary, that may be relevant with respect to whether the production of covered vehicles meets the high-wage components of the labor value content requirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime under subsection (d), articles 7 and 8 of that appendix.

(B) Nature of information requested

Records and information that may be examined or requested under subparagraph (A) may relate to wages, hours, job responsibilities, and other information in any plant or facility relied on by a producer of covered vehicles to demonstrate that the production of such vehicles by the producer meets the labor value content requirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime under subsection (d), articles 7 and 8 of that appendix.

(5) Whistleblower protections

(A) Unlawful acts

It is unlawful to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against any person for—

(i) disclosing information to a Federal agency or to any person relating to a verification under this subsection; or

(ii) cooperating or seeking to cooperate in a verification under this subsection.

(B) Enforcement

The Secretary of the Treasury and the Secretary of Labor are authorized to take such actions under existing law, including imposing appropriate penalties and seeking appropriate injunctive relief, as may be necessary to ensure compliance with this subsection and as provided for in existing regulations.

(6) Protests of decisions of U.S. Customs and Border Protection

(A) In general

If a protest under section 1514 of this title of a decision of U.S. Customs and Border Protection with respect to the eligibility for preferential tariff treatment of a covered vehicle relates to the analysis of the Department of Labor relating to the high-wage components of the labor value content requirements described in paragraph (1), the Secretary of Labor shall—

(i) conduct an administrative review of the portion of the decision relating to such requirements; and

(ii) provide the results of that review to the Commissioner.

(B) No accelerated disposition

An importer may not request the accelerated disposition under section 1515(b) of this title of a protest against a decision of the Commissioner described in subparagraph (A).

(f) Administration by Department of Labor

The Secretary of Labor is authorized to establish or designate an office within the Department of Labor to carry out the provisions of this section for which the Department is responsible.

(g) Review and reports

(1) Periodic review on automotive rules of origin

(A) In general

The Trade Representative, in consultation with the interagency committee, shall conduct a biennial review of the operation of the USMCA with respect to trade in automotive goods, including—

(i) to the extent practicable, a summary of actions taken by producers to demonstrate compliance with the automotive rules of origin, use of the alternative staging regime, enforcement of such rules of origin, and other relevant matters; and

(ii) whether the automotive rules of origin are effective and relevant in light of new technology and changes in the content, production processes, and character of automotive goods.

(B) Report

(i) In general

The Trade Representative shall submit to the appropriate congressional committees a report on each review conducted under subparagraph (A).

(ii) Initial report

The first report required under clause (i) shall be submitted not later than 2 years after the date on which the USMCA enters into force.

(iii) Termination of reporting requirement

The requirement to submit reports under clause (i) shall terminate on the date that is 10 years after the date on which the USMCA enters into force.

(2) Report by International Trade Commission

Not later than 1 year after the submission of the first report required by paragraph (1)(B), and every 2 years thereafter until the date that is 12 years after the date on which the USMCA enters into force, the International Trade Commission shall submit to the appropriate congressional committees and the President a report on—

(A) the economic impact of the automotive rules of origin on—

(i) the gross domestic product of the United States;

(ii) exports from and imports into the United States;

(iii) aggregate employment and employment opportunities in the United States;

(iv) production, investment, use of productive facilities, and profit levels in the

automotive industries and other pertinent industries in the United States affected by the automotive rules of origin;

(v) wages and employment of workers in the automotive sector in the United States; and

(vi) the interests of consumers in the United States;

(B) the operation of the automotive rules of origin and their effects on the competitiveness of the United States with respect to production and trade in automotive goods, taking into account developments in technology, production processes, or other related matters;

(C) whether the automotive rules of origin are relevant in light of technological changes in the United States; and

(D) such other matters as the International Trade Commission considers relevant to the economic impact of the automotive rules of origin, including prices, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production in the United States.

(3) Report by Comptroller General

Not later than 4 years after the date on which the USMCA enters into force, the Comptroller General of the United States shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate a report assessing the effectiveness of United States Government interagency coordination on implementation, enforcement, and verification of the automotive rules of origin and the customs procedures of the USMCA with respect to automotive goods.

(4) Public participation

Before submitting a report under paragraph (1)(B) or (2), the agency responsible for the report shall—

(A) solicit information relating to matters that will be addressed in the report from producers of automotive goods, labor organizations, and other interested parties;

(B) provide for an opportunity for the submission of comments, orally or in writing, from members of the public relating to such matters; and

(C) after submitting the report, post a version of the report appropriate for public viewing on a publicly available internet website for the agency.

(h) Effective date

This section shall—

(1) take effect on January 29, 2020; and

(2) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date on which the USMCA enters into force.

(Pub. L. 116–113, title II, §202A, Jan. 29, 2020, 134 Stat. 33.)

Executive Documents

EX. ORD. NO. 13908. ESTABLISHMENT OF THE INTERAGENCY COMMITTEE ON TRADE IN AUTOMOTIVE GOODS UNDER SECTION 202A OF THE UNITED STATES MEXICO CANADA AGREEMENT IMPLEMENTATION ACT

Ex. Ord. No. 13908, Feb. 28, 2020, 85 F.R. 12983, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and section 202A of the United States-Mexico-Canada Agreement Implementation Act (Act) (Public Law 116–113) [19 U.S.C. 4532], it is hereby ordered as follows:

SECTION 1. *Establishment of Interagency Committee.* The Interagency Committee on Trade in Automotive Goods (Committee) is hereby established to provide advice, as appropriate, on the implementation, enforcement, and modification of provisions of the United States-Mexico-Canada Agreement (Agreement) that relate to automotive goods, including the automotive rules of origin and the alternative staging regime that are part of such rules. The Committee shall also review the operation of the Agreement with respect to trade in automotive goods, including the economic effects of the automotive rules of origin on the United States economy, workers, and consumers, and the impact of new technology on such rules.

SEC. 2. *Membership.* The Committee shall be composed of the Secretary of Commerce, the Secretary of Labor, the United States Trade Representative (USTR), the Chairman of the United States International Trade Commission, and the Commissioner of U.S. Customs and Border Protection in the Department of Homeland Security. Members of the Committee may designate an officer of the United States within their respective executive department, agency, or component to serve as their representative on the Committee. The USTR shall serve as Chair of the Committee. The USTR may invite representatives from other executive departments or agencies, as the USTR determines are necessary, to participate as members or observers, and shall include the Secretary of the Treasury as a member of the Committee. Each executive department, agency, and component represented on the Committee shall ensure that the necessary staff are available to assist in performing the responsibilities of the Committee.

SEC. 3. *Committee Decision-making.* The Committee shall endeavor to make any recommendation on an action or determination under section 202A of the Act by consensus, which shall be deemed to exist where no Committee member objects to the proposed action or determination. If the Committee is unable to reach a consensus on a proposed action or determination, the Committee may decide the matter by majority vote of its members if the Chair determines that allotting further time will unduly delay implementation of provisions of the Agreement that relate to automotive goods. The Chair, in addition to voting, may also break any tie vote.

SEC. 4. *Implementing Measures.* The Secretary of the Treasury, the Secretary of Labor, and the Commissioner of U.S. Customs and Border Protection, are directed to issue, in consultation with the USTR (and with each other, as directed in the Act), such regulations and other measures as are necessary or appropriate to implement section 202A of the Act.

SEC. 5. *General Provisions.* (a) Each executive department and agency shall bear its own expenses incurred in connection with the Committee's functions described in section 202A of the Act.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 4533. Actions regarding verification of claims under the USMCA

(a) Verification

(1) Origin verification

(A) In general

The Secretary of the Treasury may, pursuant to article 5.9 of the USMCA, conduct a verification of whether a good is an originating good under section 4531 or 4532 of this title.

(B) Additional requirements

If the Secretary conducts a verification under subparagraph (A), the President may direct the Secretary—

- (i) during the verification process, to release the good only upon payment of duties or provision of security; and
- (ii) if the Secretary makes a negative determination under subsection (b), to take action under subsection (c).

(2) Textile and apparel goods

(A) In general

The Secretary of the Treasury may, pursuant to article 6.6 of the USMCA, conduct a verification described in subparagraph (C) with respect to a textile or apparel good.

(B) Additional requirements

If the Secretary conducts a verification under subparagraph (A) with respect to a textile or apparel good, the President may direct the Secretary—

- (i) during the verification process, to take appropriate action described in subparagraph (D); and
- (ii) if the Secretary makes a negative determination described in subsection (b), to take action under subsection (c).

(C) Verification described

A verification described in this subparagraph with respect to a textile or apparel good is—

- (i) a verification of whether the good qualifies for preferential tariff treatment under the USMCA; or
- (ii) a verification of whether customs offenses are occurring or have occurred with respect to the good.

(D) Action during verification

Appropriate action described in this subparagraph may consist of—

- (i) release of the textile or apparel good that is the subject of a verification described in subparagraph (C) upon payment of duties or provision of security;
- (ii) suspension of preferential tariff treatment under the USMCA with respect to—

(I) the textile or apparel good that is the subject of a verification described in

subparagraph (C)(i), if the Secretary determines that there is insufficient information to support the claim for preferential tariff treatment; or

(II) any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C)(ii) if the Secretary of the Treasury determines that there is insufficient information to support the claim for preferential tariff treatment made with respect to that good;

(iii) denial of preferential tariff treatment under the USMCA with respect to—

(I) the textile or apparel good that is the subject of a verification described in subparagraph (C)(i) if the Secretary determines that incorrect information has been provided to support the claim for preferential tariff treatment; or

(II) any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C)(ii) if the Secretary determines that the person has provided incorrect information to support the claim for preferential tariff treatment that has been made with respect to that good;

(iv) detention of any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C) if the Secretary determines that there is insufficient information to determine the country of origin of that good; and

(v) denial of entry into the United States of any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C) if the Secretary determines that the person has provided incorrect information regarding the country of origin of that good.

(b) Negative determination

(1) In general

A negative determination described in this subsection with respect to a good imported, exported, or produced by an importer, exporter, or producer is a determination by the Secretary, based on a verification conducted under subsection (a), that—

(A) a claim by the importer, exporter, or producer that the good qualifies as an originating good under section 4531 of this title is inaccurate; or

(B) the good does not qualify for preferential tariff treatment under the USMCA because—

(i) the importer, exporter, or producer failed to respond to a written request for information or failed to provide sufficient information to determine that the good qualifies as an originating good;

(ii) after receipt of a written notification for a visit to conduct verification under subsection (a), the exporter or producer did not provide written consent for that visit;