

One Hundred Sixteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and twenty*

An Act

To implement the Agreement between the United States of America, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “United States-Mexico-Canada Agreement Implementation Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

**TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE
USMCA**

Sec. 101. Approval and entry into force of the USMCA.
Sec. 102. Relationship of the USMCA to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force; initial regulations; tariff proclamation authority.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Trade Representative authority.
Sec. 107. Effective date.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Exclusion of originating goods of USMCA countries from special agriculture safeguard authority.
Sec. 202. Rules of origin.
Sec. 202A. Special rules for automotive goods.
Sec. 203. Merchandise processing fee.
Sec. 204. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
Sec. 205. Reliquidation of entries.
Sec. 206. Recordkeeping requirements.
Sec. 207. Actions regarding verification of claims under the USMCA.
Sec. 208. Drawback [reserved].
Sec. 209. Other amendments to the Tariff Act of 1930.
Sec. 210. Regulations.

TITLE III—APPLICATION OF USMCA TO SECTORS AND SERVICES

Subtitle A—Relief From Injury Caused by Import Competition [reserved]

Subtitle B—Temporary Entry of Business Persons [reserved]

Subtitle C—United States-Mexico Cross-Border Long-Haul Trucking Services

Sec. 321. Definitions.
Sec. 322. Investigations and determinations by Commission.

H. R. 5430—2

- Sec. 323. Commission recommendations and report.
- Sec. 324. Action by President with respect to affirmative determination.
- Sec. 325. Confidential business information.
- Sec. 326. Conforming amendments.
- Sec. 327. Survey of operating authorities.

TITLE IV—ANTIDUMPING AND COUNTERVAILING DUTIES

Subtitle A—Preventing Duty Evasion

- Sec. 401. Cooperation on duty evasion.

Subtitle B—Dispute Settlement [reserved]

Subtitle C—Conforming Amendments

- Sec. 421. Judicial review in antidumping duty and countervailing duty cases.
- Sec. 422. Conforming amendments to other provisions of the Tariff Act of 1930.
- Sec. 423. Conforming amendments to title 28, United States Code.

Subtitle D—General Provisions

- Sec. 431. Effect of termination of USMCA country status.
- Sec. 432. Effective date.

TITLE V—TRANSFER PROVISIONS AND OTHER AMENDMENTS

- Sec. 501. Drawback.
- Sec. 502. Relief from injury caused by import competition.
- Sec. 503. Temporary entry.
- Sec. 504. Dispute settlement in antidumping and countervailing duty cases.
- Sec. 505. Government procurement.
- Sec. 506. Actions affecting United States cultural industries.
- Sec. 507. Regulatory treatment of uranium purchases.
- Sec. 508. Report on amendments to existing law.

TITLE VI—TRANSITION TO AND EXTENSION OF USMCA

Subtitle A—Transitional Provisions

- Sec. 601. Repeal of North American Free Trade Agreement Implementation Act.
- Sec. 602. Continued suspension of the United States-Canada Free-Trade Agreement.

Subtitle B—Joint Reviews Regarding Extension of USMCA

- Sec. 611. Participation in joint reviews with Canada and Mexico regarding extension of the term of the USMCA and other action regarding the USMCA.

Subtitle C—Termination of USMCA

- Sec. 621. Termination of USMCA.

TITLE VII—LABOR MONITORING AND ENFORCEMENT

- Sec. 701. Definitions.

Subtitle A—Interagency Labor Committee for Monitoring and Enforcement

- Sec. 711. Interagency labor committee for monitoring and enforcement.
- Sec. 712. Duties.
- Sec. 713. Enforcement priorities.
- Sec. 714. Assessments.
- Sec. 715. Recommendation for enforcement action.
- Sec. 716. Petition process.
- Sec. 717. Hotline.
- Sec. 718. Reports.
- Sec. 719. Consultations on appointment and funding of rapid response labor panelists.

Subtitle B—Mexico Labor Attachés

- Sec. 721. Establishment.
- Sec. 722. Duties.
- Sec. 723. Status.

Subtitle C—Independent Mexico Labor Expert Board

- Sec. 731. Establishment.
- Sec. 732. Membership; term.
- Sec. 733. Funding.

H. R. 5430—3

Sec. 734. Reports.

Subtitle D—Forced Labor

Sec. 741. Forced labor enforcement task force.
Sec. 742. Timeline required.
Sec. 743. Reports required.
Sec. 744. Duties related to Mexico.

Subtitle E—Enforcement Under Rapid Response Labor Mechanism

Sec. 751. Transmission of reports.
Sec. 752. Suspension of liquidation.
Sec. 753. Final remedies.

TITLE VIII—ENVIRONMENT MONITORING AND ENFORCEMENT

Sec. 801. Definitions.

Subtitle A—Interagency Environment Committee for Monitoring and Enforcement

Sec. 811. Establishment.
Sec. 812. Assessment.
Sec. 813. Monitoring actions.
Sec. 814. Enforcement actions.
Sec. 815. Other monitoring and enforcement actions.
Sec. 816. Report to Congress.
Sec. 817. Regulations.

Subtitle B—Other Matters

Sec. 821. Border water infrastructure improvement authority.
Sec. 822. Detail of personnel to Office of the United States Trade Representative.

Subtitle C—North American Development Bank

Sec. 831. General capital increase.
Sec. 832. Policy goals.
Sec. 833. Efficiencies and streamlining.
Sec. 834. Performance measures.

TITLE IX—USMCA SUPPLEMENTAL APPROPRIATIONS ACT, 2019

SEC. 2. PURPOSE.

The purpose of this Act is to approve and implement the Agreement between the United States of America, the United Mexican States, and Canada entered into under the authority of section 103(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4202(b)).

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(2) HTS.—The term “HTS” means the Harmonized Tariff Schedule of the United States.

(3) IDENTICAL GOODS.—The term “identical goods” means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

(4) INTERNATIONAL TRADE COMMISSION.—The term “International Trade Commission” means the United States International Trade Commission.

(5) MEXICO.—The term “Mexico” means the United Mexican States.

(6) NAFTA.—The term “NAFTA” means the North American Free Trade Agreement approved by Congress under section 101(a)(1) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3311(a)(1)).

(7) **PREFERENTIAL TARIFF TREATMENT.**—The term “preferential tariff treatment” means the customs duty rate that is applicable to an originating good (as defined in section 202(a)) under the USMCA.

(8) **TRADE REPRESENTATIVE.**—The term “Trade Representative” means the United States Trade Representative.

(9) **USMCA.**—The term “USMCA” means the Agreement between the United States of America, the United Mexican States, and Canada, which is—

(A) attached as an Annex to the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as amended by the Protocol of Amendment to the Agreement Between the United States of America, the United Mexican States, and Canada, done at Mexico City on December 10, 2019; and

(B) approved by Congress under section 101(a)(1).

(10) **USMCA COUNTRY.**—Except as otherwise provided, the term “USMCA country” means—

(A) Canada for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Canada; and

(B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE USMCA

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE USMCA.

(a) **APPROVAL OF USMCA AND STATEMENT OF ADMINISTRATIVE ACTION.**—Pursuant to section 106 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4205) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as submitted to Congress on December 13, 2019;

(2) the Agreement between the United States of America, the United Mexican States, and Canada, attached as an Annex to the Protocol, as amended by the Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada, done at Mexico City on December 10, 2019, as submitted to Congress on December 13, 2019; and

(3) the statement of administrative action proposed to implement that Agreement, as submitted to Congress on December 13, 2019.

(b) **CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.**—The President is authorized to provide for the USMCA to enter into force with respect to Canada and Mexico not earlier than 30 days after the date on which the President submits to Congress the written notice required by section 106(a)(1)(G) of the Bipartisan

Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4205(a)(1)(G)), which shall include the date on which the USMCA will enter into force.

SEC. 102. RELATIONSHIP OF THE USMCA TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF USMCA TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the USMCA, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States, shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States, unless specifically provided for in this Act.

(b) RELATIONSHIP OF USMCA TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the USMCA, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term “State law” includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF USMCA WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the USMCA or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the USMCA.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE; INITIAL REGULATIONS; TARIFF PROCLAMATION AUTHORITY.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may prescribe such regulations, as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the USMCA enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the USMCA enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover

provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the USMCA enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—

(1) IN GENERAL.—Except as provided by paragraph (2) or (3), initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action approved under section 101(a)(2) to implement the USMCA shall, to the maximum extent feasible, be prescribed within 1 year after the date on which the USMCA enters into force.

(2) UNIFORM REGULATIONS.—Interim or initial regulations to implement the Uniform Regulations regarding rules of origin provided for under article 5.16 of the USMCA shall be prescribed not later than the date on which the USMCA enters into force.

(3) IMPLEMENTING ACTIONS WITH EFFECTIVE DATES AFTER ENTRY INTO FORCE.—In the case of any implementing action that takes effect on a date after the date on which the USMCA enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be prescribed within 1 year after such effective date.

(c) TARIFF MODIFICATIONS.—

(1) TARIFF MODIFICATIONS PROVIDED FOR IN THE USMCA.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment,

or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 6.2, and 6.3, the Schedule of the United States to Annex 2–B, including the appendices to that Annex, Annex 2–C, and Annex 6–A, of the USMCA.

(2) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(A) such modifications or continuation of any duty,

(B) such modifications as the United States may agree to with a USMCA country regarding the staging of any duty treatment set forth in the Schedule of the United States to Annex 2–B of the USMCA, including the appendices to that Annex,

(C) such continuation of duty-free or excise treatment,

or

(D) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to a USMCA country provided for by the USMCA.

(3) **CONVERSION TO AD VALOREM RATES.**—For purposes of paragraphs (1) and (2), with respect to any good for which the base rate in the Schedule of the United States to Annex 2–B of the USMCA is a specific or compound rate of duty, the President shall substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(4) **TARIFF-RATE QUOTAS.**—In implementing the tariff-rate quotas set forth in the Schedule of the United States to Annex 2–B of the USMCA, the President shall take such actions as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of agricultural goods in the United States.

(5) **PRESIDENTIAL PROCLAMATION AUTHORITY RELATING TO RULES OF ORIGIN.**—

(A) **IN GENERAL.**—The President may proclaim, as part of the HTS—

(i) the provisions set forth in Annex 4–B of the USMCA;

(ii) the provisions set forth in paragraph 2 of article 3.A.6 of Annex 3–A of the USMCA;

(iii) the provisions set forth in paragraph 5 of Annex 3–B of the USMCA;

(iv) the provisions set forth in paragraphs 14(b), 14(c), and 15(e) of Section B of Appendix 2 to Annex 2–B of the USMCA; and

(v) any additional subordinate category that is necessary to carry out section 202 and section 202A consistent with the USMCA.

(B) **MODIFICATIONS.**—

(i) **IN GENERAL.**—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of subparagraph (A), other than the provisions of chapters 50 through 63 of the USMCA.

(ii) **SPECIAL RULE FOR TEXTILES.**—Notwithstanding clause (i), and subject to the consultation and layover provisions of section 104, the President may proclaim—

(I) such modifications to the provisions proclaimed under the authority of subparagraph (A) as are necessary to implement an agreement with one or more USMCA countries pursuant to article 6.4 of the USMCA; and

(II) before the end of the 1-year period beginning on the date on which the USMCA enters into force, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the USMCA.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, that action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the International Trade Commission, which shall hold a public hearing on the proposed action before providing advice regarding the proposed action;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the proposed action and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) UNITED STATES SECTION OF SECRETARIAT.—

(1) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office to serve as the United States Section of the Secretariat established under article 30.6 of the USMCA.

(2) FUNCTIONS AND ADMINISTRATIVE ASSISTANCE.—The office established or designated under paragraph (1), subject to the oversight of the interagency group established under section 411(c)(2), shall—

(A) carry out its functions within the Secretariat to facilitate the operation of the USMCA, including the operation of section D of chapter 10 and chapter 31 of the USMCA; and

(B) provide administrative assistance to—

(i) panels established under chapter 31 of the USMCA, including under Annex 31-A (relating to the Facility-Specific Rapid Response Labor Mechanism);

(ii) technical advisers and experts provided for under chapter 31 of the USMCA;

(iii) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(iv) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(3) TREATMENT OF OFFICE UNDER FREEDOM OF INFORMATION ACT.—The office established or designated under paragraph (1) shall not be considered an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2020 to the Department of Commerce \$2,000,000 for—

(1) the operations of the office established or designated under subsection (a)(1); and

(2) the payment of the United States share of the expenses of—

(A) panels established under chapter 31 of the USMCA, including under Annex 31–A (relating to the Facility-Specific Rapid Response Labor Mechanism);

(B) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(C) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(c) REIMBURSEMENT OF CERTAIN EXPENSES.—If the Canadian Section or the Mexican Section of the Secretariat provides funds to the United States Section during any fiscal year as reimbursement for expenses in connection with dispute settlement proceedings under section D of chapter 10 or chapter 31 of the USMCA, or under chapter 19 of NAFTA, the United States Section may, notwithstanding section 3302 of title 31, United States Code, retain and use such funds to carry out the functions described in subsection (a)(2).

SEC. 106. TRADE REPRESENTATIVE AUTHORITY.

If a country (other than the United States) that has signed the USMCA does not enact implementing legislation, the Trade Representative is authorized to enter into negotiations with the other country that has signed the USMCA to consider how the applicable provisions of the USMCA can come into force with respect to the United States and that other country as promptly as possible.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—Sections 1 through 3 and this title (other than section 103(c)) shall take effect on the date of the enactment of this Act.

(b) PROCLAMATION AUTHORITY.—Section 103(c) shall take effect on the date on which the USMCA enters into force.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. EXCLUSION OF ORIGINATING GOODS OF USMCA COUNTRIES FROM SPECIAL AGRICULTURE SAFEGUARD AUTHORITY.

(a) IN GENERAL.—Section 405(e) of the Uruguay Round Agreements Act (19 U.S.C. 3602(e)) is amended to read as follows:

“(e) EXCLUSION OF ORIGINATING GOODS OF USMCA COUNTRIES.—

“(1) IN GENERAL.—The President shall exempt from any duty imposed under this section any good that qualifies as an originating good under section 202 of the United States-Mexico-Canada Agreement Implementation Act of a USMCA country with respect to which preferential tariff treatment is provided under the USMCA.

“(2) DEFINITIONS.—In this subsection, the terms ‘preferential tariff treatment’, ‘USMCA’, and ‘USMCA country’ have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) 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.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendment made by subsection (a) to section 405(e) of the Uruguay Round Agreements Act (19 U.S.C. 3602(e)) shall not apply with respect to the good; and

(B) section 405(e) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 202. RULES OF ORIGIN.

(a) DEFINITIONS.—In this section:

(1) AQUACULTURE.—The term “aquaculture” means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators.

(2) CUSTOMS VALUATION AGREEMENT.—The term “Customs Valuation Agreement” means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)).

(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term “fungible good” or “fungible material” means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(4) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF ONE OR MORE USMCA COUNTRIES.—The term “good wholly obtained or produced entirely in the territory of one or more USMCA countries” means any of the following:

(A) A mineral good or other naturally occurring substance extracted or taken from the territory of one or more USMCA countries.

(B) A plant, plant good, vegetable, or fungus grown, cultivated, harvested, picked, or gathered in the territory of one or more USMCA countries.

(C) A live animal born and raised in the territory of one or more USMCA countries.

(D) A good obtained in the territory of one or more USMCA countries from a live animal.

(E) An animal obtained by hunting, trapping, fishing, gathering, or capturing in the territory of one or more USMCA countries.

(F) A good obtained in the territory of one or more USMCA countries from aquaculture.

(G) A fish, shellfish, or other marine life taken from the sea, seabed, or subsoil outside the territory of one

or more USMCA countries and outside the territorial sea of any country that is not a USMCA country by—

(i) a vessel that is registered or recorded with a USMCA country and flying the flag of that country; or

(ii) a vessel that is documented under the laws of the United States.

(H) A good produced on board a factory ship from goods referred to in subparagraph (G), if such factory ship—

(i) is registered or recorded with a USMCA country and flies the flag of that country; or

(ii) is a vessel that is documented under the laws of the United States.

(I) A good, other than a good referred to in subparagraph (G), that is taken by a USMCA country, or a person of a USMCA country, from the seabed or subsoil outside the territory of a USMCA country, if that USMCA country has the right to exploit such seabed or subsoil.

(J) Waste and scrap derived from—

(i) production in the territory of one or more USMCA countries; or

(ii) used goods collected in the territory of one or more USMCA countries, if such goods are fit only for the recovery of raw materials.

(K) A good produced in the territory of one or more USMCA countries exclusively from goods referred to in any of subparagraphs (A) through (J), or from their derivatives, at any stage of production.

(5) INDIRECT MATERIAL.—The term “indirect material” means a material used or consumed in the production, testing, or inspection of a good but not physically incorporated into the good, or a material used or consumed in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used or consumed in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used or consumed in production or to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other material that is not incorporated into the good, if the use of the material in the production of the good can reasonably be demonstrated to be a part of that production.

(6) INTERMEDIATE MATERIAL.—The term “intermediate material” means a material that is self-produced, used or consumed in the production of a good, and designated as an intermediate material pursuant to subsection (d)(9).

(7) MATERIAL.—The term “material” means a good that is used or consumed in the production of another good and includes a part or an ingredient.

(8) NET COST.—The term “net cost” means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

(9) NET COST OF A GOOD.—The term “net cost of a good” means the net cost that can be reasonably allocated to a good using one of the methods set forth in subsection (d)(7).

(10) NONALLOWABLE INTEREST COSTS.—The term “nonallowable interest costs” means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

(11) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term “nonoriginating good” or “nonoriginating material” means a good or material, as the case may be, that does not qualify as originating under this section.

(12) ORIGINATING GOOD; ORIGINATING MATERIAL.—The term “originating good” or “originating material” means a good or material, as the case may be, that qualifies as originating under this section.

(13) PACKAGING MATERIALS AND CONTAINERS.—The term “packaging materials and containers” means materials and containers in which a good is packaged for retail sale.

(14) PACKING MATERIALS AND CONTAINERS.—The term “packing materials and containers” means materials and containers that are used to protect a good during transportation.

(15) PRODUCER.—The term “producer” means a person who engages in the production of a good.

(16) PRODUCTION.—The term “production” means—

(A) growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, breeding, extracting, manufacturing, processing, or assembling a good; or

(B) the farming of aquatic organisms through aquaculture.

(17) REASONABLY ALLOCATE.—The term “reasonably allocate” means to apportion in a manner appropriate to the circumstances.

(18) RECOVERED MATERIAL.—The term “recovered material” means a material in the form of individual parts that are the result of—

(A) the disassembly of a used good into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(19) REMANUFACTURED GOOD.—The term “remanufactured good” means a good classified in the HTS under any of chapters 84 through 90 or under heading 9402, other than a good classified under heading 8418, 8509, 8510, 8516, or 8703 or subheading 8414.51, 8450.11, 8450.12, 8508.11, or 8517.11, that—

(A) is entirely or partially composed of recovered materials;

(B) has a life expectancy similar to, and performs in a manner that is the same as or similar to, such a good when new; and

(C) has a factory warranty similar to that applicable to such a good when new.

(20) ROYALTIES.—The term “royalties” means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use of, or right to use, a copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, or secret formula or secret process, excluding payments under technical assistance or similar agreements that can be related to a specific service such as—

(A) personnel training, without regard to where the training is performed; or

(B) if performed in the territory of one or more USMCA countries, engineering, tooling, die-setting, software design and similar computer services, or other services.

(21) SALES PROMOTION, MARKETING, AND AFTER-SALES SERVICE COSTS.—The term “sales promotion, marketing, and after-sales service costs” means the costs related to sales promotion, marketing, and after-sales service for the following:

(A) Sales and marketing promotion, media advertising, advertising and market research, promotional and demonstration materials, exhibits, sales conferences, trade shows, conventions, banners, marketing displays, free samples, sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, and sales aid information), establishment and protection of logos and trademarks, sponsorships, wholesale and retail charges, and entertainment.

(B) Sales and marketing incentives, consumer, retailer, or wholesaler rebates, and merchandise incentives.

(C) Salaries and wages, sales commissions, bonuses, benefits (such as medical, insurance, and pension benefits), traveling and living expenses, and membership and professional fees for sales promotion, marketing, and after-sales service personnel.

(D) Product liability insurance.

(E) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers.

(F) Payments by the producer to other persons for warranty repairs.

(G) If the costs are identified separately for sales promotion, marketing, or after-sales service of goods on the financial statements or cost accounts of the producer, the following:

(i) Property insurance premiums, taxes, utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers.

(ii) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees.

(iii) Office supplies for sales promotion, marketing, and after-sales service of goods.

(iv) Telephone, mail, and other communications.

(22) SELF-PRODUCED MATERIAL.—The term “self-produced material” means a material that is produced by the producer of a good and used in the production of that good.

(23) SHIPPING AND PACKING COSTS.—The term “shipping and packing costs” means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale.

(24) TERRITORY.—The term “territory”, with respect to a USMCA country, has the meaning given that term in section C of chapter 1 of the USMCA.

(25) TOTAL COST.—

(A) IN GENERAL.—The term “total cost”—

(i) means all product costs, period costs, and other costs for a good incurred in the territory of one or more USMCA countries; and

(ii) does not include—

(I) profits that are earned by the producer of the good, regardless of whether the costs are retained by the producer or paid out to other persons as dividends; or

(II) taxes paid on those profits, including capital gains taxes.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) OTHER COSTS.—The term “other costs” means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

(ii) PERIOD COSTS.—The term “period costs” means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

(iii) PRODUCT COSTS.—The term “product costs” means costs that are associated with the production of a good, including the value of materials, direct labor costs, and direct overhead.

(26) TRANSACTION VALUE.—The term “transaction value” means the price—

(A) actually paid or payable for a good or material with respect to a transaction of a producer; and

(B) adjusted in accordance with the principles set forth in paragraphs 1, 3, and 4 of article 8 of the Customs Valuation Agreement.

(27) 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.

(28) VALUE.—The term “value” means the value of a good or material for purposes of calculating customs duties or applying this section.

(b) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, that reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value referred to in this section with respect to a good shall be recorded and maintained in accordance with the generally accepted accounting principles

applicable in the territory of the USMCA country in which the good is produced.

(c) ORIGINATING GOODS.—

(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the USMCA, except as otherwise provided in this section, a good is an originating good if—

(A) the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries;

(B) the good is produced entirely in the territory of one or more USMCA countries using nonoriginating materials, if the good satisfies all applicable requirements set forth in Annex 4–B of the USMCA; or

(C) the good is produced entirely in the territory of one or more USMCA countries, exclusively from originating materials;

(D) except for a good provided for under any of chapters 61 through 63—

(i) the good is produced entirely in the territory of one or more USMCA countries;

(ii) one or more of the nonoriginating materials provided for as parts under the HTS and used in the production of the good do not satisfy the requirements set forth in Annex 4–B of the USMCA because—

(I) both the good and its materials are classified under the same subheading or under the same heading that is not further subdivided into subheadings; or

(II) the good was imported into the territory of a USMCA country in an unassembled form or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the HTS; and

(iii) the regional value content of the good is not less than 60 percent if the transaction value method is used, or not less than 50 percent if the net cost method is used and the good satisfies all other applicable requirements of this section; or

(E) the good itself, as imported, is listed in table 2.10.1 of the USMCA and is imported into the territory of the United States from the territory of a USMCA country.

(2) REMANUFACTURED GOODS.—For purposes of determining whether a remanufactured good is an originating good, a recovered material derived in the territory of one or more USMCA countries shall be treated as originating if the recovered material is used or consumed in the production of, and incorporated into, the remanufactured good.

(d) REGIONAL VALUE CONTENT.—

(1) IN GENERAL.—Except as provided in paragraph (5), for purposes of subparagraphs (B) and (D) of subsection (c)(1), the regional value content of a good shall be calculated, at the choice of the importer, exporter, or producer of the good, on the basis of—

(A) the transaction value method described in paragraph (2); or

(B) the net cost method described in paragraph (3).

(2) TRANSACTION VALUE METHOD.—

(A) IN GENERAL.—An importer, exporter, or producer of a good may calculate the regional value content of the good on the basis of the following transaction value method:

$$\text{RVC} = \frac{\text{TV} - \text{VNM}}{\text{TV}} \times 100$$

(B) DEFINITIONS.—In this paragraph:

(i) RVC.—The term “RVC” means the regional value content of the good, expressed as a percentage.

(ii) TV.—The term “TV” means the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good.

(iii) VNM.—The term “VNM” means the value of nonoriginating materials used by the producer in the production of the good.

(3) NET COST METHOD.—

(A) IN GENERAL.—An importer, exporter, or producer of a good may calculate the regional value content of the good on the basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC} - \text{VNM}}{\text{NC}} \times 100$$

(B) DEFINITIONS.—In this paragraph:

(i) NC.—The term “NC” means the net cost of the good.

(ii) RVC.—The term “RVC” means the regional value content of the good, expressed as a percentage.

(iii) VNM.—The term “VNM” means the value of nonoriginating materials used by the producer in the production of the good.

(4) VALUE OF NONORIGINATING MATERIALS.—

(A) IN GENERAL.—The value of nonoriginating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph (2) or (3), include the value of nonoriginating materials used or consumed to produce originating materials that are subsequently used or consumed in the production of the good.

(B) SPECIAL RULE FOR CERTAIN COMPONENTS.—The following components of the value of nonoriginating materials used by the producer in the production of a good may be counted as originating content for purposes of determining whether the good meets the regional value content requirement set forth in Annex 4–B of the USMCA:

(i) The value of processing the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(ii) The value of any originating materials used or consumed in the production of the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(5) NET COST METHOD REQUIRED IN CERTAIN CASES.—An importer, exporter, or producer of a good shall calculate the regional value content of the good solely on the basis of the net cost method described in paragraph (3) if the rule for the good set forth in Annex 4–B of the USMCA includes a

regional value content requirement not based on the transaction value method described in paragraph (2).

(6) NET COST METHOD ALLOWED FOR ADJUSTMENTS.—

(A) IN GENERAL.—If an importer, exporter, or producer of a good calculates the regional value content of the good on the basis of the transaction value method described in paragraph (2) and a USMCA country subsequently notifies the importer, exporter, or producer, during the course of a verification conducted in accordance with chapter 5 or 6 of the USMCA, that the transaction value of the good or the value of any material used in the production of the good must be adjusted or is unacceptable under article 1 of the Customs Valuation Agreement, the importer, exporter, or producer may calculate the regional value content of the good on the basis of the net cost method.

(B) REVIEW OF ADJUSTMENT.—Nothing in subparagraph (A) shall be construed to prevent any review or appeal available in accordance with article 5.15 of the USMCA with respect to an adjustment to or a rejection of—

(i) the transaction value of a good; or

(ii) the value of any material used in the production of a good.

(7) CALCULATING NET COST.—The producer of a good may, consistent with regulations implementing this section, calculate the net cost of the good under paragraph (3) by—

(A) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any sales promotion, marketing, and after-sales services costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of those goods, and then reasonably allocating the resulting net cost of those goods to the good;

(B) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the good, and subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs, that are included in the portion of the total cost allocated to the good; or

(C) reasonably allocating each cost that is part of the total cost incurred with respect to the good so that the aggregate of those costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs.

(8) VALUE OF MATERIALS USED IN PRODUCTION.—For purposes of calculating the regional value content of a good under this subsection, applying the de minimis rules under subsection (f), and calculating the value of nonoriginating components in a set under subsection (m), the value of a material used in the production of a good is—

(A) in the case of a material that is imported by the producer of the good, the transaction value of the material at the time of importation, including the costs incurred in the international shipment of the material;

(B) in the case of a material acquired in the territory in which the good is produced—

(i) the price paid or payable by the producer in the USMCA country where the producer is located;

(ii) the value as determined under subparagraph (A), as set forth in regulations prescribed by the Secretary of the Treasury providing for the application of transaction value in the absence of an importation by the producer; or

(iii) the earliest ascertainable price paid or payable in the territory of the country; or

(C) in the case of a self-produced material, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade or equal to the profit that is usually reflected in the sale of goods of the same class or kind as the material.

(9) INTERMEDIATE MATERIALS.—

(A) IN GENERAL.—Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for purposes of calculating the regional value content of the good under paragraph (2) or (3).

(B) MATERIALS USED IN PRODUCTION OF INTERMEDIATE MATERIALS.—If a self-produced material is designated as an intermediate material under subparagraph (A) for purposes of calculating a regional value content requirement, no other self-produced material subject to a regional value content requirement used or consumed in the production of that intermediate material may be designated by the producer as an intermediate material.

(10) FURTHER ADJUSTMENTS TO VALUE OF MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (8), may be deducted from the value of the nonoriginating material:

(A) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

(B) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more USMCA countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(C) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(e) ACCUMULATION.—

(1) PRODUCERS.—A good that is produced in the territory of one or more USMCA countries, by one or more producers, is an originating good if the good satisfies the requirements of subsection (c) and all other applicable requirements of this section.

(2) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF A USMCA COUNTRY.—Originating materials from the territory

of one or more USMCA countries that are used in the production of a good in the territory of another USMCA country shall be considered to originate in the territory of such other USMCA country.

(3) PRODUCTION UNDERTAKEN ON NONORIGINATING MATERIALS USED IN THE PRODUCTION OF GOODS.—In determining whether a good is an originating good under this section, production undertaken on nonoriginating material in the territory of one or more USMCA countries by one or more producers shall contribute to the originating status of the good, regardless of whether that production is sufficient to confer originating status to the nonoriginating material.

(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), a good that does not undergo a change in tariff classification or satisfy a regional value content requirement set forth in Annex 4-B of the USMCA is an originating good if—

(A) the value of all nonoriginating materials that are used in the production of the good, and do not undergo the applicable change in tariff classification set forth in Annex 4-B of the USMCA—

(i) does not exceed 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; or

(ii) does not exceed 10 percent of the total cost of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value content requirement for the good.

(2) EXCEPTIONS FOR DAIRY AND OTHER PRODUCTS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material of headings 0401 through 0406, or a nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or 2106.90, used or consumed in the production of a good of headings 0401 through 0406.

(B) A nonoriginating material of headings 0401 through 0406, or nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or 2106.90, used or consumed in the production of any of the following goods:

(i) Infant preparations containing over 10 percent by dry weight of milk solids, of subheading 1901.10.

(ii) Mixes and doughs containing over 25 percent by dry weight of butterfat, not put up for retail sale, of subheading 1901.20.

(iii) A dairy preparation containing over 10 percent by dry weight of milk solids, of subheading 1901.90 or 2106.90.

(iv) A good of heading 2105.

(v) Beverages containing milk of subheading 2202.90.

(vi) Animal feeds containing over 10 percent by dry weight of milk solids of subheading 2309.90.

(C) A nonoriginating material of heading 0805, or any of subheadings 2009.11 through 2009.39, used or consumed in the production of a good of subheadings 2009.11 through 2009.39, or a fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, of subheading 2106.90 or 2202.90.

(D) A nonoriginating material of chapter 9 used or consumed in the production of instant coffee, not flavored, of subheading 2101.11.

(E) A nonoriginating material of chapter 15 used or consumed in the production of a good of heading 1507, 1508, 1512, 1514, or 1515.

(F) A nonoriginating material of heading 1701 used or consumed in the production of a good of any of headings 1701 through 1703.

(G) A nonoriginating material of chapter 17 or heading 1805 used in the production of a good of subheading 1806.10.

(H) Nonoriginating peaches, pears, or apricots of chapter 8 or 20, used in the production of a good of heading 2008.

(I) A nonoriginating single juice ingredient of heading 2009 used or consumed in the production of a good of—

(i) subheading 2009.90, or tariff item 2106.90.54 (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins); or

(ii) tariff item 2202.99.37 (mixtures of fruit or vegetable juices, fortified with minerals or vitamins).

(J) A nonoriginating material of any of headings 2203 through 2208 used or consumed in the production of a good provided for under heading 2207 or 2208.

(3) GOODS PROVIDED FOR UNDER CHAPTERS 1 THROUGH 27.—Paragraph (1) does not apply to a nonoriginating material used or consumed in the production of a good provided for in chapters 1 through 27 unless the nonoriginating material is provided for in a different subheading than the subheading of the good for which origin is being determined.

(4) TEXTILE OR APPAREL GOODS.—

(A) GOODS CLASSIFIED UNDER CHAPTERS 50 THROUGH 60.—Except as provided in subparagraph (C), a textile or apparel good provided for in any of chapters 50 through 60 or heading 9619 that is not an originating good because certain nonoriginating materials used in the production of the good do not undergo an applicable change in tariff classification set forth in Annex 4-B of the USMCA, shall be considered to be an originating good if the total weight of all such materials, including elastomeric yarns, is not more than 10 percent of the total weight of the good and the good meets all other applicable requirements of this section.

(B) GOODS CLASSIFIED UNDER CHAPTERS 61 THROUGH 63.—Except as provided in subparagraph (C), a textile or apparel good provided for in chapter 61, 62, or 63 that is not an originating good because certain fibers or yarns

used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set forth in Annex 4-B of the USMCA shall be considered to be an originating good if the total weight of all such fibers or yarns in the component, including elastomeric yarns, is not more than 10 percent of the total weight of the component and the good meets all other applicable requirements of this section.

(C) GOODS CONTAINING NONORIGINATING ELASTOMERIC YARNS.—

(i) GOODS CLASSIFIED UNDER CHAPTERS 50 THROUGH 60 OR HEADING 9619.—A textile or apparel good described in subparagraph (A) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the good do not exceed 7 percent of the total weight of the good.

(ii) GOODS CLASSIFIED UNDER CHAPTERS 61 THROUGH 63.—A textile or apparel good described in subparagraph (B) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the component of the good that determines the tariff classification of the good do not exceed 7 percent of the total weight of the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) FUNGIBLE MATERIALS USED IN PRODUCTION.—Subject to paragraph (3), if originating and nonoriginating fungible materials are used or consumed in the production of a good, the determination of whether the materials are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(2) FUNGIBLE GOODS COMMINGLED AND EXPORTED.—Subject to paragraph (3), if originating and nonoriginating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(3) USE OF INVENTORY MANAGEMENT METHOD.—A person that selects an inventory management method for purposes of paragraph (1) or (2) shall use that inventory management method throughout the fiscal year of the person.

(h) ACCESSORIES, SPARE PARTS, TOOLS, AND INSTRUCTIONAL OR OTHER INFORMATION MATERIALS.—

(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, tools, or instructional or other information materials delivered with a good shall—

(A) be treated as originating if the good is an originating good;

(B) be disregarded in determining whether a good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries or satisfies a process or change in tariff classification set forth in Annex 4-B of the USMCA; and

(C) be taken into account as originating or nonoriginating materials, as the case may be, in calculating any

applicable regional value content of the good set forth in Annex 4-B of the USMCA.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, tools, or instructional or other information materials are classified with and delivered with, but not invoiced separately from, the good; and

(B) the types, quantities, and value of the accessories, spare parts, tools, or instructional or other information materials are customary for the good.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all of the nonoriginating materials used in the production of the good undergo the applicable process or change in tariff classification requirement set forth in Annex 4-B of the USMCA, or whether the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries. If the good is subject to a regional value content requirement set forth in that Annex, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

(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), 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.

SEC. 202A. 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 vehicles 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 the date of the enactment of this Act, 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 the date of the enactment of this Act, 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, time-frame, 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 producer 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 light 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 light 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 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 207, 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 514 of the Tariff Act of 1930 (19 U.S.C. 1514) 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 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) 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 the date of the enactment of this Act; 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.

SEC. 203. MERCHANDISE PROCESSING FEE.

(a) **IN GENERAL.**—Section 13031(b)(10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)) is amended by striking subparagraph (B) and inserting the following:

“(B) No fee may be charged under paragraph (9) or (10) of subsection (a) with respect to goods that qualify as originating goods under section 202 of the United States-Mexico-Canada Agreement Implementation Act or qualify for duty-free treatment under Annex 6-A of the USMCA (as defined in section 3 of that Act). Any service for which an exemption from such fee is provided

by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall—

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

(B) apply with respect to a good entered or released on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered or released before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 13031(b)(10)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)(B)) shall not apply with respect to the good; and

(B) section 13031(b)(10)(B) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(3) ENTERED OR RELEASED DEFINED.—In this subsection, the term “entered or released” has the meaning given that term in section 13031(b)(8)(E) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(E)).

SEC. 204. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) DISCLOSURE OF INCORRECT INFORMATION.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c), by striking paragraph (5) and inserting the following:

“(5) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE USMCA.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 202 of the United States-Mexico-Canada Agreement Implementation Act if the importer, in accordance with regulations prescribed by the Secretary of the Treasury, promptly makes a corrected declaration and pays any duties owing with respect to that good.”; and

(2) by striking subsection (f) and inserting the following: “(f) FALSE CERTIFICATIONS OF ORIGIN UNDER THE USMCA.—

“(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a USMCA certification of origin (as such term is defined in section 508 of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin provided for in section 202 of the United States-Mexico-Canada Agreement Implementation Act. The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

“(2) PROMPT AND VOLUNTARY DISCLOSURE OF INCORRECT INFORMATION.—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a USMCA certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice

of such incorrect information to every person to whom the certification was issued.

“(3) EXCEPTION.—A person shall not be considered to have violated paragraph (1) if—

“(A) the information was correct at the time it was provided in a USMCA certification of origin but was later rendered incorrect due to a change in circumstances; and

“(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.”.

(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (b), by striking “and article 1904” and all that follows through “Free-Trade Agreement”;

(2) in subsection (c)—

(A) in paragraph (1), in the matter following subparagraph (D), by striking “section 202 of the North American Free Trade Agreement Implementation Act” and inserting “section 202 of the United States-Mexico-Canada Agreement Implementation Act”; and

(B) in paragraph (2)(E)—

(i) by striking “section 202 of the North American Free Trade Agreement Implementation Act” and inserting “section 202 of the United States-Mexico-Canada Agreement Implementation Act”; and

(ii) by striking “NAFTA Certificate of Origin” and inserting “USMCA certification of origin (as such term is defined in section 508 of this Act)”;

(3) in subsection (e), by striking “section 202 of the North American Free Trade Agreement Implementation Act” and inserting “section 202 of the United States-Mexico-Canada Agreement Implementation Act”; and

(4) by striking subsection (f) and inserting the following:

“(f) DENIAL OF PREFERENTIAL TARIFF TREATMENT UNDER THE USMCA.—If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 202 of the United States-Mexico-Canada Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations prescribed by the Secretary of the Treasury, may suspend preferential tariff treatment under the USMCA (as defined in section 3 of that Act) to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 202.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall—

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

(B) apply with respect to a good entered, or exported from the United States, as the case may be, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered, or exported from the United States, as the

case may be, before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) and the amendments made by subsection (b) to section 514 of such Act (19 U.S.C. 1514) shall not apply with respect to the good; and

(B) sections 592 and 514 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(3) ENTERED DEFINED.—In this subsection, the term “entered” includes a withdrawal from warehouse for consumption.

SEC. 205. RELIQUIDATION OF ENTRIES.

(a) IN GENERAL.—Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “section 202 of the North American Free Trade Agreement Implementation Act,”;

(B) by striking “, or section 203” and inserting “, section 203”; and

(C) by striking “for which” and inserting “, or section 202 of the United States-Mexico-Canada Agreement Implementation Act (except with respect to any merchandise processing fees), for which”; and

(2) by striking paragraph (2) and inserting the following:

“(2) copies of all applicable certificates or certifications of origin; and”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection

(a) 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.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) shall not apply with respect to the good; and

(B) section 520(d) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 206. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) EXPORTS AND IMPORTS RELATING TO USMCA COUNTRIES.—

“(1) DEFINITIONS.—In this subsection:

“(A) USMCA; USMCA COUNTRY.—The terms ‘USMCA’ and ‘USMCA country’ have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.

“(B) USMCA CERTIFICATION OF ORIGIN.—The term ‘USMCA certification of origin’ means the certification established under article 5.2.1 of the USMCA that a good qualifies as an originating good under the USMCA.

“(2) EXPORTS TO USMCA COUNTRIES.—Any person who completes a USMCA certification of origin or provides a written representation for a good exported from the United States to a USMCA country shall make, keep, and, pursuant to rules and regulations prescribed by the Secretary of the Treasury, render for examination and inspection, all records and supporting documents related to the origin of the good (including the certification or copies thereof), including records related to—

“(A) the purchase, cost, value, and shipping of, and payment for, the good;

“(B) the purchase, cost, value, and shipping of, and payment for, all materials, including indirect materials, used in the production of the good; and

“(C) the production of the good in the form in which it was exported or the production of the material in the form in which it was sold.

“(3) EXPORTS UNDER THE CANADIAN AGREEMENT.—Any person who exports, or who knowingly causes to be exported, any merchandise to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.

“(4) IMPORTS INTO THE UNITED STATES.—

“(A) IN GENERAL.—Any importer who claims preferential tariff treatment under the USMCA for a good imported into the United States from a USMCA country shall make, keep, and, pursuant to rules and regulations prescribed by the Secretary of the Treasury of the Secretary of Labor, render for examination and inspection—

“(i) records and supporting documentation related to the importation;

“(ii) all records and supporting documents related to the origin of the good (including the certification or copies thereof), if the importer completed the certification; and

“(iii) records and supporting documents necessary to demonstrate that the good did not, while in transit to the United States, undergo further production or any other operation other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the United States.

“(B) VEHICLE PRODUCER.—Any vehicle producer whose good is the subject of a claim for preferential tariff treatment under the USMCA shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury and Secretary of Labor, render for examination and inspection records and supporting documents related to the labor value content and steel and aluminum

purchasing requirements for the qualification of its vehicles for preferential treatment.

“(5) RETENTION PERIOD.—

“(A) EXPORTS TO USMCA COUNTRIES.—A person covered by paragraph (2) who completes a USMCA certification of origin or provides a written representation for a good exported from the United States to a USMCA country shall keep the records required by such paragraph relating to that certification of origin for a period of at least 5 years after the date on which the certification is completed.

“(B) EXPORTS UNDER CANADIAN AGREEMENT.—The records required by paragraph (3) shall be kept for such periods of time as the Secretary shall prescribe, except that—

“(i) no period of time for the retention of the records may exceed 5 years from the date of entry, filing of a reconciliation, or exportation, as appropriate; and

“(ii) records for any drawback claim shall be kept until the third anniversary of the date of liquidation of the claim.

“(C) IMPORTS INTO THE UNITED STATES.—

“(i) IN GENERAL.—An importer covered by paragraph (4)(A) shall keep the records and supporting documents required by such paragraph for a period of at least 5 years after the date of importation of the good.

“(ii) VEHICLE PRODUCER.—A vehicle producer covered by paragraph (4)(B) shall keep the records and supporting documents required by paragraph (4)(B) for a period of at least 5 years after the date of filing the certifications required under paragraphs (1) and (2) of section 202A(c) of the United States-Mexico-Canada Agreement Implementation Act.”;

(2) by striking subsection (c); and

(3) in the paragraph heading for subsection (e)(1), by striking “NAFTA” and inserting “USMCA”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date on which the USMCA enters into force.

(2) APPLICABILITY.—

(A) EXPORTS.—Paragraphs (2) and (5)(A) of section 508(b) of the Tariff Act of 1930, as amended by subsection (a), shall apply with respect to a good exported from the United States on or after the date on which the USMCA enters into force.

(B) IMPORTS.—Paragraphs (4) and (5)(C) of section 508(b) of the Tariff Act of 1930, as amended by subsection (a), shall apply with respect to a good that is entered for consumption, or withdrawn from warehouse for consumption, on or after the date on which the USMCA enters into force.

(3) TRANSITION FROM NAFTA TREATMENT.—

(A) EXPORTS.—In the case of a good exported from the United States before the date on which the USMCA enters into force—

(i) the amendments made by subsection (a) to paragraphs (2) and (5)(A) of section 508(b) of the Tariff Act of 1930 (19 U.S.C. 1508) shall not apply with respect to the good; and

(ii) section 508 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(B) IMPORTS.—In the case of a good that is entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force, the amendments made by subsection (a) to paragraphs (4) and (5)(C) of section 508(b) of the Tariff Act of 1930 (19 U.S.C. 1508) shall not apply with respect to the good.

SEC. 207. 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 202 or 202A.

(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 202 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;

(iii) the importer, exporter, or producer does not maintain, or denies access to, records or documentation required under section 508(l) of the Tariff Act of 1930 (19 U.S.C. 1508(l));

(iv) in the case of verification conducted under subsection (a)(2)—

(I) access or permission for a site visit is denied;

(II) officials of the United States are prevented from completing a site visit on the proposed date and the exporter or producer does not provide an acceptable alternative date for the site visit; or

(III) the exporter or producer does not provide access to relevant documents or facilities during a site visit; or

(v) the importer, exporter, or producer—

(I) otherwise fails to comply with the requirements of this section; or

(II) based on the preponderance of the evidence, circumvents the requirements of this section.

(2) REQUESTS FOR INFORMATION.—The Secretary shall not make a negative determination described in paragraph (1)(B) unless—

(A) in a case in which the Secretary conducts a verification with respect to a good by written request or questionnaire submitted to the importer under article 5.9.1(a) of the USMCA and the claim for preferential tariff treatment under the USMCA is based on a certification of origin completed by the exporter or producer of the good, the Secretary requests information from the exporter or producer that completed the certification; or

(B) in a case in which the Secretary conducts a verification with respect to a textile or apparel good by requesting a site visit under article 6.6.2 of the USMCA, the Secretary requests information from the importer and from any exporter or producer that provided information to the Secretary to support the claim for preferential tariff treatment.

(c) ACTION BASED ON DETERMINATION.—

(1) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—Upon making a negative determination described in subsection (b)(1) with respect to a good, the Secretary may deny preferential tariff treatment under the USMCA with respect to the good.

(2) WITHHOLDING OF PREFERENTIAL TARIFF TREATMENT BASED ON PATTERN OF CONDUCT.—If verifications of origin relating to identical goods indicate a pattern of conduct by an importer, exporter, or producer of false or unsupported representations relevant to a claim that a good imported into the United States qualifies for preferential tariff treatment under the USMCA, U.S. Customs and Border Protection, in

accordance with regulations prescribed by the Secretary, may withhold preferential tariff treatment under the USMCA for entries of those goods imported, exported, or produced by that person until U.S. Customs and Border Protection determines that person has established compliance with requirements for claims for preferential tariff treatment under the USMCA.

(d) PREVENTION OF CIRCUMVENTION.—In making a determination under this section, including whether to accept or reject a claim for preferential tariff treatment under the USMCA, the Secretary shall interpret the requirements of this section in a manner to avoid and prevent circumvention of those requirements.

SEC. 208. DRAWBACK [RESERVED].

SEC. 209. OTHER AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) COUNTRY OF ORIGIN MARKING.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended by striking subsection (k) and inserting the following:

“(k) TREATMENT OF GOODS OF A USMCA COUNTRY.—In applying this section to an article that qualifies as a good of a USMCA country (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)—

“(1) the exemption under subsection (a)(3)(H) shall be applied by substituting ‘reasonably know’ for ‘necessarily know’;

“(2) the Secretary shall exempt the good from the requirements for marking under subsection (a) if the good—

“(A) is an original work of art; or

“(B) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the Harmonized Tariff Schedule of the United States; and

“(3) subsection (b) does not apply to the usual container of any good described in subsection (a)(3)(E) or (I) or paragraph (2)(A) or (B) of this subsection.”.

(b) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)(A)) is amended—

(1) in clause (i), by inserting at the end “or a vehicle producer whose good is subject to a claim of preferential tariff treatment under the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act),”; and

(2) in clause (ii), by striking “a NAFTA country” and all that follows through “Implementation Act)” and inserting “a USMCA country (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”.

(c) EXCHANGE OF INFORMATION.—Section 628 of the Tariff Act of 1930 (19 U.S.C. 1628) is amended by striking subsection (c) and inserting the following:

“(c) GOVERNMENT AGENCY OF USMCA COUNTRY.—

“(1) IN GENERAL.—The Secretary may authorize U.S. Customs and Border Protection to exchange information with any government agency of a USMCA country, if the Secretary—

“(A) reasonably believes the exchange of information is necessary to implement chapter 2, 4, 5, 6, or 7 of the USMCA; and

“(B) obtains assurances from such agency that the information will be held in confidence and used only for governmental purposes.

“(2) DEFINITIONS.—In this subsection, the terms ‘USMCA’ and ‘USMCA country’ have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by 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.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by this section shall not apply with respect to the good; and

(B) the provisions of law amended by this section, as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(e) EFFECTIVE DATE RELATING TO EXCHANGE OF INFORMATION.—Notwithstanding the amendment made by subsection (c), the Secretary of the Treasury shall retain the authority provided in section 628(c) of the Tariff Act of 1930 (as in effect on the day before the date on which the USMCA enters into force) to exchange information with any government agency of a NAFTA country (as defined in section 2 of the North American Free Trade Agreement Implementation Act (as in effect on the day before the date on which the USMCA enters into force)).

SEC. 210. REGULATIONS.

(a) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this title and the amendments made by this title (except as provided by subsection (b)).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the labor value content determination under section 202A.

TITLE III—APPLICATION OF USMCA TO SECTORS AND SERVICES

Subtitle A—Relief From Injury Caused by Import Competition [reserved]

Subtitle B—Temporary Entry of Business Persons [reserved]

Subtitle C—United States-Mexico Cross- Border Long-Haul Trucking Services

SEC. 321. DEFINITIONS.

In this subtitle:

(1) **BORDER COMMERCIAL ZONE.**—The term “border commercial zone” means—

(A) the area of United States territory of the municipalities along the United States-Mexico international border and the commercial zones of such municipalities as described in subpart B of part 372 of title 49, Code of Federal Regulations; and

(B) any additional border crossing and associated commercial zones listed in the Federal Motor Carrier Safety Administration OP–2 application instructions or successor documents.

(2) **CARGO ORIGINATING IN MEXICO.**—The term “cargo originating in Mexico” means any cargo that enters the United States by commercial motor vehicle from Mexico, including cargo that may have originated in a country other than Mexico.

(3) **CHANGE IN CIRCUMSTANCES.**—The term “change in circumstance” may include a substantial increase in services supplied by the grantee of a grant of authority.

(4) **COMMERCIAL MOTOR VEHICLE.**—The term “commercial motor vehicle” means a commercial motor vehicle, as such term is defined in paragraph (1) of section 31132 of title 49, United States Code, that meets the requirements of subparagraph (A) of such paragraph.

(5) **CROSS-BORDER LONG-HAUL TRUCKING SERVICES.**—The term “cross-border long-haul trucking services” means—

(A) the transportation by commercial motor vehicle of cargo originating in Mexico to a point in the United States outside of a border commercial zone; or

(B) the transportation by commercial motor vehicle of cargo originating in the United States from a point in the United States outside of a border commercial zone to a point in a border commercial zone or a point in Mexico.

(6) **DRIVER.**—The term “driver” means a person that drives a commercial motor vehicle in cross-border long-haul trucking services.

(7) **GRANT OF AUTHORITY.**—The term “grant of authority” means registration granted pursuant to section 13902 of title 49, United States Code, or a successor provision, to persons

of Mexico to conduct cross-border long-haul trucking services in the United States.

(8) INTERESTED PARTY.—The term “interested party” means—

(A) persons of the United States engaged in the provision of cross-border long-haul trucking services;

(B) a trade or business association, a majority of whose members are part of the relevant United States long-haul trucking services industry;

(C) a certified or recognized union, or representative group of suppliers, operators, or drivers who are part of the United States long-haul trucking services industry;

(D) the Government of Mexico; or

(E) persons of Mexico.

(9) MATERIAL HARM.—The term “material harm” means a significant loss in the share of the United States market or relevant sub-market for cross-border long-haul trucking services held by persons of the United States.

(10) OPERATOR OR SUPPLIER.—The term “operator” or “supplier” means an entity that has been granted registration under section 13902 of title 49, United States Code, to provide cross-border long-haul trucking services.

(11) PERSONS OF MEXICO.—The term “persons of Mexico” includes—

(A) entities domiciled in Mexico organized, or otherwise constituted under Mexican law, including subsidiaries of United States companies domiciled in Mexico, or entities owned or controlled by a Mexican national, which conduct cross-border long-haul trucking services, or employ drivers who are non-United States nationals; and

(B) drivers who are Mexican nationals.

(12) PERSONS OF THE UNITED STATES.—The term “persons of the United States” includes entities domiciled in the United States, organized or otherwise constituted under United States law, and not owned or controlled by persons of Mexico, which provide cross-border long-haul trucking services and long-haul commercial motor vehicle drivers who are United States nationals.

(13) THREAT OF MATERIAL HARM.—The term “threat of material harm” means material harm that is likely to occur.

(14) UNITED STATES LONG-HAUL TRUCKING SERVICES INDUSTRY.—The term “United States long-haul trucking services industry” means—

(A) United States suppliers, operators, or drivers as a whole providing cross-border long-haul trucking services; or

(B) United States suppliers, operators, or drivers providing cross-border long-haul trucking services in a specific sub-market of the whole United States market.

SEC. 322. INVESTIGATIONS AND DETERMINATIONS BY COMMISSION.

(a) INVESTIGATION.—Upon the filing of a petition by an interested party described in subparagraph (A), (B), or (C) of section 321(8) which is representative of a United States long-haul trucking services industry, or at the request of the President or the Trade Representative, or upon the resolution of the Committee on Ways and Means of the House of Representatives or the Committee

on Finance of the Senate, the International Trade Commission (in this subtitle referred to as the “Commission”) shall promptly initiate an investigation to determine—

(1) whether a request by a person of Mexico to receive a grant of authority that is pending as of the date of the filing of the petition threatens to cause material harm to a United States long-haul trucking services industry;

(2) whether a person of Mexico who has received a grant of authority on or after the date of entry into force of the USMCA and retains such grant of authority is causing or threatens to cause material harm to a United States long-haul trucking services industry; or

(3) whether, with respect to a person of Mexico who has received a grant of authority before the date of entry into force of the USMCA and retains such grant of authority, there has been a change in circumstances such that such person of Mexico is causing or threatens to cause material harm to a United States long-haul trucking services industry.

(b) TRANSMISSION OF PETITION, REQUEST, OR RESOLUTION.—The Commission shall transmit a copy of any petition, request, or resolution filed under subsection (a) to the Trade Representative and the Secretary of Transportation.

(c) PUBLICATION AND HEARINGS.—The Commission shall—

(1) promptly publish notice of the commencement of any investigation under subsection (a) in the Federal Register; and

(2) within a reasonable time period thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to presentations of other parties, and otherwise to be heard.

(d) FACTORS APPLIED IN MAKING DETERMINATIONS.—In making a determination under subsection (a) of whether a request by a person of Mexico to receive a grant of authority, or a person of Mexico who has received a grant of authority and retains such grant of authority, as the case may be, threatens to cause material harm to a United States long-haul trucking services industry, the Commission shall—

(1) consider, among other things, and as relevant—

(A) the volume and tonnage of merchandise transported; and

(B) the employment, wages, hours of service, and working conditions; and

(2) with respect to a change in circumstances described in subsection (a)(3), take into account those operations by persons of Mexico under grants of authority in effect as of the date of entry into force of the USMCA are not causing material harm.

(e) ASSISTANCE TO COMMISSION.—

(1) IN GENERAL.—At the request of the Commission, the Secretary of Homeland Security shall consult with the Commission and shall collect and maintain such additional data and other information on commercial motor vehicles entering or exiting the United States at a port of entry or exit at the United States border with Mexico as the Commission may request for the purpose of conducting investigations under subsection (a) and shall make such information available to the Commission in a timely manner.

(2) REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—At the request of the Commission, the Secretary of Homeland Security, the Secretary of Transportation, the Secretary of Commerce, the Secretary of Labor, and the head of any other Federal agency shall make available to the Commission any information in their possession, including proprietary information, as the Commission may require in order to assist the Commission in making determinations under subsection (a).

(B) CONFIDENTIAL BUSINESS INFORMATION.—The Commission shall treat any proprietary information obtained under subparagraph (A) as confidential business information in accordance with regulations adopted by the Commission to carry out this subtitle.

(f) LIMITED DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION UNDER PROTECTIVE ORDER.—The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under subsection (a).

(g) DEADLINE FOR DETERMINATION.—

(1) IN GENERAL.—Not later than 120 days after the date on which an investigation is initiated under subsection (a) with respect to a petition, request, or resolution, the Commission shall make a determination with respect to the petition, request, or resolution.

(2) EXCEPTION.—If, before the 100th day after an investigation is initiated under subsection (a), the Commission determines that the investigation is extraordinarily complicated, the Commission shall make its determination with respect to the investigation not later than 150 days after the date referred to in paragraph (1).

(h) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

SEC. 323. COMMISSION RECOMMENDATIONS AND REPORT.

(a) IN GENERAL.—If the Commission makes an affirmative determination under section 322, the Commission shall recommend the action that is necessary to address the material harm or threat of material harm found.

(b) LIMITATION.—Only those members of the Commission who agreed to the affirmative determination under section 322 are eligible to vote on the recommendation required to be made under subsection (a).

(c) REPORT.—Not later than the date that is 60 days after the date on which the determination is made under section 322, the Commission shall submit to the President a report that includes—

(1) the determination and an explanation of the basis for the determination;

(2) if the determination is affirmative, recommendations for action and an explanation of the basis for the recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination.

(d) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (c), the Commission shall—

(1) promptly make public the report (with the exception of information which the Commission determines to be confidential business information); and

(2) publish a summary of the report in the Federal Register.

SEC. 324. ACTION BY PRESIDENT WITH RESPECT TO AFFIRMATIVE DETERMINATION.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission's determination under section 322 is affirmative or which contains a determination that the President may treat as affirmative in accordance with section 330(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1))—

(1) the President shall, subject to subsection (b), issue an order to the Secretary of Transportation specifying the relief to be provided, consistent with subsection (c), and directing the relief to be carried out; and

(2) the Secretary of Transportation shall carry out such relief.

(b) EXCEPTION.—The President is not required to provide relief under this section if the President determines that provision of such relief—

(1) is not in the national economic interest of the United States; or

(2) would cause serious harm to the national security of the United States.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The relief the President is authorized to provide under this subsection is as follows:

(A)(i) With respect to a determination relating to an investigation under section 322(a)(1), the denial or imposition of limitations on a request for a new grant of authority by the persons of Mexico that are the subject of the investigation.

(ii) With respect to a determination relating to an investigation under section 322(a)(1), the revocation of, or restrictions on, grants of authority issued to the persons of Mexico that are the subject of the investigation since the date of the petition, request, or resolution.

(B) With respect to a determination relating to an investigation under section 322(a)(2) or (3), the revocation or imposition of limitations on an existing grant of authority by the persons of Mexico that are the subject of the investigation.

(C) With respect to a determination relating to an investigation under section 322(a)(1), (2), or (3), a cap on the number of grants of authority issued to persons of Mexico annually.

(2) DEADLINE FOR RELIEF.—Not later than 15 days after the date on which the President determines the relief to be provided under this subsection, the President shall direct the Secretary of Transportation to carry out the relief.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any relief that the President provides under this section may not be in effect for more than 2 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which contains a determination that the President may treat as affirmative in accordance with section 330(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)(1)), may extend the effective period of relief provided under this section by up to an additional 4 years, if the President determines that the provision of the relief continues to be necessary to remedy or prevent material harm.

(B) ACTION BY COMMISSION.—

(i) INVESTIGATION.—Upon request of the President, or upon the filing by an interested party described in subparagraph (A), (B), or (C) of section 321(8) which is representative of a United States long-haul trucking services industry that is filed with the Commission not earlier than the date that is 270 days, and not later than the date that is 240 days, before the date on which any action taken under this section is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent material harm.

(ii) NOTICE AND HEARING.—The Commission shall—

(I) publish notice of the commencement of an investigation under clause (i) in the Federal Register; and

(II) within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise be heard.

(iii) REPORT.—Not later than the date that is 60 days before relief provided under subsection (a) is to terminate, or such other date as determined by the President, the Commission shall submit to the President a report on its investigation and determination under this subparagraph.

(C) PERIOD OF RELIEF.—Any relief provided under this section, including any extension thereof, may not, in the aggregate, be in effect for more than 6 years.

(D) LIMITATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may not conduct an investigation under subparagraph (B)(i) if—

(I) the subject matter of the investigation is the same as the subject matter of a previous investigation conducted under subparagraph (B)(i); and

(II) less than 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

(ii) EXCEPTION.—Clause (i) shall not apply with respect to an investigation if the Commission determines good cause exists to conduct the investigation.

(e) REGULATIONS.—The Commission and the Secretary of Transportation are authorized to promulgate such rules and regulations as may be necessary to carry out this subtitle.

SEC. 325. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence by striking “and title III of the United States-Panama Trade Promotion Agreement Implementation Act” and inserting “, title III of the United States-Panama Trade Promotion Agreement Implementation Act, and subtitle C of title III of the United States-Mexico-Canada Agreement Implementation Act”.

SEC. 326. CONFORMING AMENDMENTS.

(a) REGISTRATION OF MOTOR CARRIERS.—Section 13902 of title 49, United States Code, is amended by inserting at the end the following:

“(j) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by denying or imposing limitations on a request for registration or capping the number of requests for registration by Mexico-domiciled motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.”.

(b) EFFECTIVE PERIODS OF REGISTRATION.—Section 13905 of title 49, United States Code, is amended by inserting at the end the following:

“(g) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by revoking or imposing limitations on existing registrations of Mexico-domiciled motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.”.

SEC. 327. SURVEY OF OPERATING AUTHORITIES.

The Department of Transportation shall undertake a survey of all existing grants of operating authority to, and pending applications for operating authority from, all Mexico-domiciled motor property carriers for operating beyond the Border Commercial Zones, including OP-1 (MX) operating authority (Mexico-domiciled Carriers for Motor Carrier Authority to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border) and OP-1 operating authority (United States-based Enterprise Carrier of International Cargo Application for Motor Property Carrier and Broker Authority). The Department of Transportation shall prepare a report summarizing the results of such survey not less than 180 days after the date on which the USMCA enters into force, which it shall deliver to the Office of the United States Trade Representative, the Commission, and the Chairs and Ranking Members of the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science,

and Transportation of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

TITLE IV—ANTIDUMPING AND COUNTERVAILING DUTIES

Subtitle A—Preventing Duty Evasion

SEC. 401. COOPERATION ON DUTY EVASION.

Section 414(b) of the Enforce and Protect Act of 2015 (19 U.S.C. 4374(b)) is amended—

- (1) by inserting “or a party to the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)” after “subsection (a)”; and
- (2) by inserting “or the USMCA, as the case may be,” after “the bilateral agreement”.

Subtitle B—Dispute Settlement [reserved]

Subtitle C—Conforming Amendments

SEC. 421. JUDICIAL REVIEW IN ANTIDUMPING DUTY AND COUNTERVAILING DUTY CASES.

Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

- (1) in subsection (a)—
 - (A) in paragraph (2)(B)(vii), by striking “the Tariff Act of 1930” and inserting “this Act”; and
 - (B) in paragraph (5)(D)(i), by striking “article 1904 of the NAFTA” and inserting “article 10.12 of the USMCA”;
- (2) in subsection (b)(3)—
 - (A) in the paragraph heading, by striking “NAFTA OR UNITED STATES-CANADA” and inserting “UNITED STATES-CANADA OR USMCA”; and
 - (B) in the text, by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”;
- (3) in subsection (f)—
 - (A) in paragraph (6)(A), by striking “article 1908 of the NAFTA” and inserting “article 10.16 of the USMCA”;
 - (B) in paragraph (7)(A), by striking “article 1908 of the NAFTA” and inserting “article 10.16 of the USMCA”;
 - (C) by striking paragraph (8);
 - (D) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively;
 - (E) in paragraph (9), as redesignated by subparagraph (D), by striking subparagraphs (A) and (B) and inserting the following:

“(A) Canada for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Canada.

“(B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.”; and

(F) by adding at the end the following:

“(10) USMCA.—The term ‘USMCA’ has the meaning given that term in section 3 of the United States-Mexico-Canada Agreement Implementation Act.”;

(4) in subsection (g)—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”;

(B) in paragraph (3)(A)—

(i) in clause (i), by striking “of the NAFTA or of the Agreement.” and inserting “of the Agreement or article 10.12 of the USMCA”;

(ii) in clause (iii), by striking “the NAFTA or of the Agreement” and inserting “the Agreement or the USMCA”;

(iii) in clause (v), by striking “paragraph 12 of article 1905 of the NAFTA” and inserting “article 10.13 of the USMCA”; and

(iv) in clause (vi), by striking “paragraph 12 of article 1905 of the NAFTA” and inserting “article 10.13 of the USMCA”;

(C) in paragraph (4)(A), by striking “the North American Free Trade Agreement” and all that follows through “chapter 19 of the Agreement” and inserting “the United States-Canada Free-Trade Agreement Implementation Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, or the United States-Mexico-Canada Agreement Implementation Act implementing the binational panel dispute settlement system under chapter 10 of the USMCA”;

(D) in paragraph (5)—

(i) in subparagraph (A), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”;

(ii) in subparagraph (B), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”; and

(iii) in subparagraph (C)—

(I) in clause (i), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”; and

(II) in clause (iii), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or chapter 10 of the USMCA”;

(E) in paragraph (6), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”;

(F) in paragraph (7)—

(i) in the paragraph heading, by striking “OF THE NAFTA OR THE AGREEMENT” and inserting “OF THE AGREEMENT OR ARTICLE 10.12 OF THE USMCA”; and

(ii) in subparagraph (A), by striking “the NAFTA or the Agreement” and inserting “article 1904 of the Agreement or article 10.12 of the USMCA”;

(G) in paragraph (8)—

(i) in subparagraph (A)—

(I) in clause (i), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”; and

(II) in clause (ii)—

(aa) in the clause heading, by striking “NAFTA” and inserting “USMCA”; and

(bb) in the text, by striking “paragraph 11(a) of article 1905 of the NAFTA” and inserting “article 10.13 of the USMCA”; and

(ii) in subparagraph (C), by striking “of the NAFTA or the Agreement” and inserting “of the Agreement or article 10.12 of the USMCA”;

(H) in paragraph (9), by striking “of the NAFTA or of the Agreement” and inserting “of the Agreement or chapter 10 of the USMCA”;

(I) in paragraph (10), by striking “the NAFTA or the Agreement” and inserting “the Agreement or under article 10.12 of the USMCA”;

(J) by striking paragraph (11) and inserting the following:

“(11) SUSPENSION AND TERMINATION OF SUSPENSION OF ARTICLE 10.12 OF THE USMCA.—

“(A) SUSPENSION.—If a special committee established under article 10.13 of the USMCA issues an affirmative finding, the Trade Representative may, in accordance with article 10.13 of the USMCA, suspend the operation of article 10.12 of the USMCA.

“(B) TERMINATION OF SUSPENSION.—If a special committee is reconvened and makes an affirmative determination described in article 10.13 of the USMCA, any suspension of the operation of article 10.12 of the USMCA shall terminate.”; and

(K) in paragraph (12)—

(i) in the paragraph heading, by striking “NAFTA” and inserting “USMCA”;

(ii) by striking subparagraph (A) and inserting the following:

“(A) NOTICE OF SUSPENSION OR TERMINATION OF SUSPENSION OF ARTICLE 10.12 OF THE USMCA.—

“(i) NOTICE OF SUSPENSION.—Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the operation of article 10.12 of the USMCA has been suspended in accordance with article 10.13 of the USMCA, the United States Secretary shall publish in the Federal Register a notice of suspension of article 10.12 of the USMCA.

“(ii) NOTICE OF TERMINATION OF SUSPENSION.—Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the suspension of

the operation of article 10.12 of the USMCA is terminated in accordance with article 10.13 of the USMCA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 10.12 of the USMCA.”;

(iii) in subparagraph (B)—

(I) in the subparagraph heading, by striking “ARTICLE 1904” and inserting “ARTICLE 10.12 OF THE USMCA”; and

(II) in the matter preceding clause (i), by striking “If” and all that follows through “NAFTA—” and inserting the following: “If the operation of article 10.12 of the USMCA is suspended in accordance with article 10.13 of the USMCA—”;

(iv) in subparagraph (C)—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking “if the United States” and all that follows through “NAFTA—” and inserting the following: “if the United States made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA—”; and

(bb) in subclause (I), by striking “subsection (f)(10)(A) or (B)” and inserting “subparagraph (A) or (B) of subsection (f)(9)”; and

(II) in clause (ii), in the matter preceding subclause (I), by striking “if a country” and all that follows through “NAFTA—” and inserting the following: “if a country described in subparagraph (A) or (B) of subsection (f)(9) made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA—”; and

(v) in subparagraph (D)(i), by striking “a country described” and all that follows through “NAFTA” and inserting “a country described in subparagraph (A) or (B) of subsection (f)(9) pursuant to article 10.13 of the USMCA”.

SEC. 422. CONFORMING AMENDMENTS TO OTHER PROVISIONS OF THE TARIFF ACT OF 1930.

(a) DISCLOSURE OF PROPRIETARY INFORMATION UNDER PROTECTIVE ORDERS.—Section 777(f) of the Tariff Act of 1930 (19 U.S.C. 1677f(f)) is amended—

(1) in the subsection heading, by striking “NORTH AMERICAN FREE TRADE AGREEMENT OR THE UNITED STATES-CANADA AGREEMENT” and inserting “THE UNITED STATES-CANADA AGREEMENT OR THE USMCA”;

(2) in paragraph (1)—

(A) in subparagraph (A), by striking “article 1904 of the NAFTA” and all that follows through “, the administering authority” and inserting “article 1904 of the United States-Canada Agreement or article 10.12 of the USMCA,

or an extraordinary challenge committee is convened under Annex 1904.13 of the United States-Canada Agreement or chapter 10 of the USMCA, the administering authority”; and

(B) in subparagraph (B), by striking “chapter 19 of the NAFTA or the Agreement” each place it appears and inserting “chapter 19 of the Agreement or chapter 10 of the USMCA”;

(3) in paragraph (3), by striking “the NAFTA or the United States-Canada Agreement” and inserting “article 1904 of the United States-Canada Agreement or article 10.12 of the USMCA”;

(4) in paragraph (4), by striking “section 402(b) of the North American Free Trade Agreement Implementation Act” and inserting “section 412(b) of the United States-Mexico-Canada Agreement Implementation Act”; and

(5) by striking “section 516A(f)(10)” each place it appears and inserting “section 516A(f)(9)”.

(b) DEFINITION.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by striking paragraph (22) and inserting the following:

“(22) USMCA.—The term ‘USMCA’ has the meaning given that term in section 3 of the United States-Mexico-Canada Agreement Implementation Act.”.

SEC. 423. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) COURT OF INTERNATIONAL TRADE.—Chapter 95 of title 28, United States Code, is amended—

(1) in section 1581(i)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(B) by inserting “(1)” after “(i)”;

(C) in subparagraph (D), as redesignated by subparagraph (A), by striking “paragraphs (1)–(3) of this subsection” and inserting “subparagraphs (A) through (C) of this paragraph”; and

(D) by striking the flush text and inserting the following:

“(2) This subsection shall not confer jurisdiction over an antidumping or countervailing duty determination which is reviewable by—

“(A) the Court of International Trade under section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)); or

“(B) a binational panel under section 516A(g) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)).”;

(2) in section 1584, by striking the section heading and inserting the following:

“§ 1584. Civil actions under the United States-Canada Free-Trade Agreement or the USMCA”;

and

(3) in the table of sections at the beginning of the chapter, by striking the item relating to section 1584 and inserting the following:

“1584. Civil actions under the United States-Canada Free-Trade Agreement or the USMCA.”.

(b) PARTICULAR PROCEEDINGS.—Sections 2201(a) and 2643(c)(5) of title 28, United States Code, are each amended by striking “section 516A(f)(10)” and inserting “section 516A(f)(9)”.

Subtitle D—General Provisions

SEC. 431. EFFECT OF TERMINATION OF USMCA COUNTRY STATUS.

(a) IN GENERAL.—Except as provided in subsection (b), on the date on which a country ceases to be a USMCA country, the provisions of this title (other than this section) and the amendments made by this title shall cease to have effect with respect to that country.

(b) TRANSITION PROVISIONS.—

(1) PROCEEDINGS REGARDING PROTECTIVE ORDERS AND UNDERTAKINGS.—If on the date on which a country ceases to be a USMCA country an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(f) of the Tariff Act of 1930 (as amended by this title) or an undertaking of the government of that country is pending, the investigation or proceeding shall continue, and sanctions may continue to be imposed, in accordance with the provisions of such section 777(f) (as so amended).

(2) BINATIONAL PANEL AND EXTRAORDINARY CHALLENGE COMMITTEE REVIEWS.—If on the date on which a country ceases to be a USMCA country—

(A) a binational panel review under article 10.12 of the USMCA is pending, or has been requested, or

(B) an extraordinary challenge committee review under that article is pending, or has been requested, with respect to a determination which involves a class or kind of merchandise and to which subsection (g)(2) of section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) applies, such determination shall be reviewable under subsection (a) of that section. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under 516A(a) of the Tariff Act of 1930 shall not begin to run until the date on which the USMCA ceases to be in force with respect to that country.

SEC. 432. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on the date on which the USMCA enters into force, but shall not apply—

(1) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before such date; or

(2) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before such date.

TITLE V—TRANSFER PROVISIONS AND OTHER AMENDMENTS

SEC. 501. DRAWBACK.

(a) CLERICAL AMENDMENT.—Section 208 of this Act is amended in the section heading by striking “[RESERVED]”.

(b) USMCA DRAWBACK.—Subsection (a) of section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) is—

(1) transferred to section 208 of this Act;

(2) inserted after the section heading for that section (as amended by subsection (a)); and

(3) amended—

(A) by striking “NAFTA country” each place it appears and inserting “USMCA country”;

(B) in the subsection heading, by striking “NAFTA” and inserting “USMCA”;

(C) in the matter preceding paragraph (1)—

(i) by striking “and the amendments made by subsection (b)”;

(ii) by striking “NAFTA drawback” and inserting “USMCA drawback”;

(D) in paragraph (2)—

(i) in subparagraph (A), by inserting “sorting, marking,” after “repacking,”; and

(ii) in subparagraph (B), by striking “paragraph 12 of section A of Annex 703.2 of the Agreement” and inserting “paragraph 11 of Annex 3-B of the USMCA”; and

(E) by amending paragraph (6) to read as follows:

“(6) A good provided for in subheading 1701.13.20 or 1701.14.20 of the HTS that is imported under any re-export program or any like program and that is—

“(A) used as a material, or

“(B) substituted for by a good of the same kind and quality that is used as a material,

in the production of a good provided for in existing Canadian tariff item 1701.99.00 or existing Mexican tariff item 1701.99.01, 1701.99.02, or 1701.99.99 (relating to refined sugar).”.

(c) SAME KIND AND QUALITY.—Section 208 of this Act, as amended by subsection (b), is further amended by adding at the end the following:

“(b) SAME KIND AND QUALITY.—For purposes of paragraphs (3)(A)(iii), (5)(C), (6)(B), and (8) of subsection (a), and for purposes of obtaining refunds, waivers, or reductions of customs duties with respect to a good subject to USMCA drawback under section 313(n)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(n)(2)), a good is a good of the same kind and quality as another good—

“(1) for a good described in such paragraph (6)(B), if the good would have been considered of the same kind and quality

as the other good on the day before the date on which the USMCA enters into force; or

“(2) for other goods if—

“(A) the good is classified under the same 8-digit HTS subheading number as the other good; or

“(B) drawback would be allowed with respect to the goods under subsection (b)(4), (j)(1), or (p) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313).”.

(d) CERTAIN FEES; INAPPLICABILITY TO COUNTERVAILING AND ANTIDUMPING DUTIES.—Subsections (d) and (e) of section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) are—

(1) transferred to section 208 of this Act;

(2) inserted after subsection (b) of section 208 (as added by subsection (c));

(3) redesignated as subsections (c) and (d), respectively; and

(4) amended, in subsection (c) (as redesignated by paragraph (3)), by striking “exported to” and all that follows through the period at the end and inserting “exported to a USMCA country.”.

(e) CONFORMING AMENDMENTS.—

(1) BONDED MANUFACTURING WAREHOUSES.—Section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended, in the eleventh paragraph—

(A) by striking “NAFTA” each place it appears;

(B) by striking “section 203(a) of the North American Free Trade Agreement Implementation Act” and inserting “section 208(a) of the United States-Mexico-Canada Agreement Implementation Act”; and

(C) by striking “section 2(4) of that Act” and inserting “section 3 of that Act”.

(2) BONDED SMELTING AND REFINING WAREHOUSES.—Section 312 of the Tariff Act of 1930 (19 U.S.C. 1312) is amended, in subsections (b) and (d)—

(A) by striking “NAFTA” each place it appears and inserting “USMCA”;

(B) by striking “section 2(4) of the North American Free Trade Agreement Implementation Act” each place it appears and inserting “section 3 of the United States-Mexico-Canada Agreement Implementation Act”; and

(C) by striking “section 203(a) of that Act” each place it appears and inserting “section 208(a) of that Act”.

(3) DRAWBACK AND REFUNDS.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(A) in subsection (j)(4), by striking subparagraph (A) and inserting the following:

“(A)(i) Effective upon the entry into force of the USMCA, the exportation to a USMCA country of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 208(a) of the United States-Mexico-Canada Agreement Implementation Act, shall not constitute an exportation for purposes of paragraph (2).

“(ii) In this subparagraph, the terms ‘USMCA’ and ‘USMCA country’ have the meanings given those terms in section 3

of the United States-Mexico-Canada Agreement Implementation Act.”;

(B) in subsection (n)—

(i) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

“(A) the term ‘USMCA country’ has the meaning given that term in section 3 of the United States-Mexico-Canada Agreement Implementation Act;

“(B) the term ‘good subject to USMCA drawback’ has the meaning given that term in section 208(a) of the United States-Mexico-Canada Agreement Implementation Act;”;

(ii) in paragraphs (2) and (3), by striking “NAFTA”

each place it appears and inserting “USMCA”; and

(C) in subsection (o), by striking “NAFTA” each place it appears and inserting “USMCA”.

(4) MANIPULATION IN WAREHOUSE.—Section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended—

(A) by striking paragraph (1) and inserting the following:

“(1) without payment of duties for exportation to a USMCA country, as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act, if the merchandise is of a kind described in any of paragraphs (1) through (8) of section 208(a) of that Act;”;

(B) in paragraph (2)—

(i) by striking “section 203(a) of that Act” and inserting “section 208(a) of that Act”; and

(ii) by striking “NAFTA” each place it appears and inserting “USMCA”; and

(C) in paragraphs (3) and (4), by striking “NAFTA” each place it appears and inserting “USMCA”.

(5) FOREIGN TRADE ZONES.—Section 3(a)(2) of the Act of June 18, 1934 (commonly known as the “Foreign Trade Zones Act”) (19 U.S.C. 81c(a)(2)) is amended, in the flush text—

(A) by striking “goods subject to NAFTA drawback, as defined in section 203(a) of the North American Free Trade Agreement Implementation Act” and inserting “goods subject to USMCA drawback, as defined in section 208(a) of the United States-Mexico-Canada Agreement Implementation Act”;

(B) by striking “a NAFTA country, as defined in section 2(4) of that Act” and inserting “a USMCA country, as defined in section 3 of that Act”; and

(C) by striking “NAFTA” each place it appears and inserting “USMCA”.

(f) ADDITIONAL CLERICAL AMENDMENT.—The table of contents for this Act is amended by striking the item relating to section 208 and inserting the following:

“Sec. 208. Drawback.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by subsections (b) through (e) shall—

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

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

(2) **TRANSITION FROM NAFTA TREATMENT.**—In the case of a good entered, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by subsections (b) through (e) shall not apply with respect to the good; and

(B) the provisions of law amended by such subsections, as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 502. RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION.

(a) **CLERICAL AMENDMENT.**—Subtitle A of title III of this Act is amended in the subtitle heading by striking “[**reserved**]”.

(b) **ARTICLE IMPACT IN IMPORT RELIEF CASES.**—Section 311 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371) is—

(1) transferred to subtitle A of title III of this Act;

(2) inserted after the heading (as amended by subsection (a)) of such subtitle;

(3) redesignated as section 301; and

(4) amended—

(A) in the section heading, by striking “**NAFTA**” and inserting “**USMCA**”;

(B) in subsection (c), by striking “section 312(a)” and inserting “section 302(a)”; and

(C) by striking “**NAFTA**” each place it appears and inserting “**USMCA**”.

(c) **PRESIDENTIAL ACTION REGARDING IMPORTS.**—Section 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3372) is—

(1) transferred to subtitle A of title III of this Act;

(2) inserted after section 301 (as inserted and redesignated by subsection (b));

(3) redesignated as section 302; and

(4) amended—

(A) in the section heading, by striking “**NAFTA**” and inserting “**USMCA**”;

(B) in subsection (b), in the subsection heading, by striking “**NAFTA**” and inserting “**USMCA**”;

(C) in subsection (c), in the subsection heading, by striking “**NAFTA**” and inserting “**USMCA**”; and

(D) by striking “**NAFTA**” each place it appears and inserting “**USMCA**”.

(d) **ADDITIONAL CLERICAL AMENDMENTS.**—The table of contents for this Act is amended by striking the item relating to subtitle A of title III and inserting the following:

“Subtitle A—Relief From Injury Caused by Import Competition

“Sec. 301. USMCA article impact in import relief cases under the Trade Act of 1974.

“Sec. 302. Presidential action regarding USMCA imports.”.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Each transfer, redesignation, and amendment made by this section shall—

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

(B) apply with respect to an investigation under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) initiated on or after that date.

(2) TRANSITION FROM NAFTA.—In the case of an investigation under chapter 1 of title II of the Trade Act of 1974 initiated before the date on which the USMCA enters into force—

(A) the transfers, redesignations, and amendments made by this section shall not apply with respect to the investigation; and

(B) sections 311 and 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371 and 3372), as in effect on the day before that date, shall continue to apply on and after that date with respect to the investigation.

SEC. 503. TEMPORARY ENTRY.

(a) CLERICAL AMENDMENT.—Subtitle B of title III of this Act is amended in the subtitle heading by striking “[**reserved**]”.

(b) NONIMMIGRANT TRADERS AND INVESTORS.—Section 341 of the North American Free Trade Agreement Implementation Act (Public Law 103–182; 107 Stat. 2116) is—

(1) transferred to subtitle B of title III of this Act;

(2) inserted after the heading (as amended by subsection

(a)) of such subtitle;

(3) redesignated as section 311; and

(4) amended—

(A) by striking subsections (b) and (c);

(B) by striking “(a)” and all that follows through “Upon” and inserting “Upon”;

(C) by striking “the Agreement” each place it appears and inserting “the USMCA”;

(D) by striking “Annex 1603” and inserting “Annex 16–A”; and

(E) by striking “Annex 1608” and inserting “article 16.1”.

(c) NONIMMIGRANT PROFESSIONALS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in subsection (e)—

(A) by striking paragraphs (1), (3), (4), and (5);

(B) by redesignating paragraphs (2) and (6) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1), as redesignated by subparagraph (B)—

(i) by striking “Annex 1603 of the North American Free Trade Agreement (in this subsection referred to as ‘NAFTA’)” and inserting “Annex 16–A of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”; and

(ii) by striking the third and fourth sentences and inserting the following: “For purposes of this paragraph, the term ‘citizen of Mexico’ means ‘citizen’ as defined in article 16.1 of the USMCA.”; and

(2) in subsection (j)(1)—

(A) in the first sentence, by striking “Annex 1603 of the North American Free Trade Agreement” and inserting “Annex 16–A of the USMCA (as defined in section 3 of

the United States-Mexico-Canada Agreement Implementation Act”;

(B) in the second sentence, by striking “article 1603 of such Agreement” and inserting “article 16.4 of the USMCA”; and

(C) in the third sentence, by striking “Annex 1608 of such Agreement” and inserting “article 16.1 of the USMCA”.

(d) CONFORMING AMENDMENTS.—

(1) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Section 110(c)(1)(B) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(c)(1)(B)) is amended by striking “North American Free Trade Agreement” and inserting “USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”.

(2) ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002.—Section 604 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1773) is amended by striking “North American Free Trade Agreement” and inserting “USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”.

(e) ADDITIONAL CLERICAL AMENDMENTS.—The table of contents for this Act is amended by striking the item relating to subtitle A of title III and inserting the following:

“Subtitle B—Temporary Entry of Business Persons

“Sec. 311. Temporary entry.”.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section shall—

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

(B) apply with respect to a visa issued on or after that date.

(2) TRANSITION FROM NAFTA.—In the case of a visa issued before the date on which the USMCA enters into force—

(A) the transfers, redesignations, and amendments made by this section shall not apply with respect to the visa; and

(B) the provisions of law amended by subsections (b) through (d), as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the visa.

SEC. 504. DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

(a) CLERICAL AMENDMENT.—Subtitle B of title IV of this Act is amended in the subtitle heading by striking “[reserved]”.

(b) REFERENCES IN SUBTITLE.—Section 401 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3431) is—

(1) transferred to subtitle B of title IV of this Act and inserted after the heading (as amended by subsection (a)) of such subtitle;

(2) redesignated as section 411; and

(3) amended by striking “the Agreement” and inserting “the USMCA”.

(c) ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS.—Section 402 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3432) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 411 (as inserted and redesignated by subsection (b));

(2) redesignated as section 412; and

(3) amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (D), by striking “in paragraph 1” and all that follows and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; and”;

(II) in subparagraph (E), by striking “chapter 19” and inserting “chapter 10”; and

(III) in the matter following subparagraph (E), by striking “in paragraph 1” and all that follows through “Annex 1904.13” and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3”; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking “UNDER” and all that follows before the period; and

(II) in the text—

(aa) by striking “paragraph 1 of Annex 1901.2” and inserting “paragraph 1 of Annex 10–B.1”;

(bb) by striking “chapter 19” each place it appears and inserting “chapter 10”; and

(cc) by striking “article 1905” and inserting “article 10.13”;

(B) in subsection (b)(1)—

(i) by striking “chapter 19” each place it appears and inserting “chapter 10”; and

(ii) by striking “article 1905” and inserting “article 10.13”;

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking “chapter 19” each place it appears and inserting “chapter 10”; and

(II) by striking “article 1905” and inserting “article 10.13”;

(ii) in paragraph (2)(B)—

(I) by striking “chapter 19” each place it appears and inserting “chapter 10”; and

(II) in clause (i)(II), by striking “article 1905” and inserting “article 10.13”;

(iii) in paragraph (3)—

(I) in subparagraph (A)(i), by striking “Annex 1901.2” and inserting “Annex 10–B.1”;

(II) in subparagraph (A)(ii), by striking “under Annex 1904.13” and all that follows and inserting “under Annex 10–B.3 and special committees under article 10.13.”; and

- (III) in subparagraph (B)(i), by striking “chapter 19” and inserting “chapter 10”; and
- (iv) in paragraph (4)—
 - (I) in subparagraph (A), by striking “chapter 19” and inserting “chapter 10”; and
 - (II) in subparagraph (C)(iv)(III), by striking “chapter 19” and inserting “chapter 10”;
- (D) in subsection (d)—
 - (i) in paragraph (1)—
 - (I) in subparagraph (A), by striking “in paragraph 1” and all that follows and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; or”; and
 - (II) in subparagraph (B), by striking “chapter 19” and inserting “chapter 10”;
 - (ii) in paragraph (2)—
 - (I) in subparagraph (A)(i), by striking “in paragraph 1” and all that follows through “during” and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3 during”;
 - (II) in subparagraph (A)(ii)—
 - (aa) by striking “chapter 19” and inserting “chapter 10”; and
 - (bb) by striking “the Agreement” and inserting “the USMCA”;
 - (III) in subparagraph (A)(iii), by striking “NAFTA” and inserting “USMCA”;
 - (IV) in subparagraph (B)(i), by striking “in paragraph 1” and all that follows and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; or”; and
 - (V) in subparagraph (B)(ii), by striking “chapter 19” and inserting “chapter 10”; and
 - (iii) in paragraph (3)—
 - (I) in subparagraph (A), by striking “in paragraph 1” and all that follows through “during” and inserting “in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3 during”; and
 - (II) in subparagraph (B), by striking “chapter 19” and inserting “chapter 10”;
- (E) in subsection (e), in the matter preceding paragraph (1)—
 - (i) by striking “the Agreement” and inserting “the USMCA”;
 - (ii) by striking “between the United States” and all that follows through “NAFTA country”; and
 - (iii) by striking “January 3, 1994” and inserting “January 3, 2020”;
- (F) in subsection (f), by striking “chapter 19” and inserting “chapter 10”;
- (G) in subsection (g), by striking “chapter 19” and inserting “chapter 10”; and
- (H) in subsection (h), by striking “chapter 19” and inserting “chapter 10”.

(d) TESTIMONY AND PRODUCTION OF PAPERS.—Section 403 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3433) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 412 (as inserted and redesignated by subsection (c));

(2) redesignated as section 413; and

(3) amended in subsection (a), in the matter preceding paragraph (1), by striking “under paragraph 13” and all that follows through “the committee—” and inserting “under paragraph 13 of article 10.12, and the allegations before the committee include a matter referred to in paragraph 13(a)(i) of article 10.12, for the purposes of carrying out its functions and duties under Annex 10-B.3, the committee—”.

(e) REQUESTS FOR REVIEW OF DETERMINATIONS.—Section 404 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3434) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 413 (as inserted and redesignated by subsection (d));

(2) redesignated as section 414; and

(3) amended—

(A) in the section heading, by striking “OF NAFTA COUNTRIES”;

(B) in subsection (a)—

(i) in paragraph (1), by striking “article 1911” and all that follows and inserting “article 10.8, of a USMCA country.”; and

(ii) in paragraph (2), by striking “article 1908” and inserting “article 10.16”;

(C) in subsection (b), by striking “article 1904” and inserting “article 10.12”; and

(D) in subsection (c), by striking “article 1904” each place it appears and inserting “article 10.12”.

(f) RULES OF PROCEDURE FOR PANELS AND COMMITTEES.—Section 405 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3435) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 414 (as inserted and redesignated by subsection (e));

(2) redesignated as section 415; and

(3) amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking “article 1904” and inserting “article 10.12”;

(B) in subsection (b), by striking “Annex 1904.13” and inserting “Annex 10-B.3”; and

(C) in subsection (c), by striking “Annex 1905.6” and inserting “Annex 10-B.4”.

(g) SUBSIDY NEGOTIATIONS.—Section 406 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3436) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 415 (as inserted and redesignated by subsection (f));

(2) redesignated as section 416; and

(3) amended, in the matter preceding paragraph (1), by striking “NAFTA country” and inserting “USMCA country”.

(h) IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.—Section 407 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3437) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 416 (as inserted and redesignated by subsection (g));

(2) redesignated as section 417; and

(3) amended—

(A) in subsection (a)(1)(A)—

(i) by striking “the Agreement” and inserting “the USMCA”; and

(ii) by striking “NAFTA country” and inserting “USMCA country”;

(B) in subsection (c), in the matter following paragraph (3), by striking “NAFTA countries” and inserting “USMCA countries”; and

(C) in subsection (d)(3), by striking “the Agreement” and inserting “the USMCA”.

(i) TREATMENT OF AMENDMENTS TO LAW.—Section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 417 (as inserted and redesignated by subsection (h));

(2) redesignated as section 418; and

(3) amended—

(A) in the matter preceding paragraph (1), by striking “the Agreement” and all that follows through “United States” and inserting “the USMCA”; and

(B) in the flush text, by striking “NAFTA country” and inserting “USMCA country”.

(j) ADDITIONAL CLERICAL AMENDMENTS.—The table of contents for this Act is amended by striking the item relating to subtitle B of title IV and inserting the following:

“Subtitle B—Dispute Settlement

“Sec. 411. References in subtitle.

“Sec. 412. Organizational and administrative provisions.

“Sec. 413. Testimony and production of papers in extraordinary challenges.

“Sec. 414. Requests for review of determination by competent investigating authorities.

“Sec. 415. Rules of procedure for panels and committees.

“Sec. 416. Subsidy negotiations.

“Sec. 417. Identification of industries facing subsidized imports.

“Sec. 418. Treatment of amendments to antidumping and countervailing duty law.”.

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section shall take effect on the date on which the USMCA enters into force, but shall not apply—

(A) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before such date; and

(B) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before such date.

(2) TRANSITION FROM NAFTA.—The transfers, redesignations, and amendments made by this section shall not apply,

and the provisions of title IV of the North American Free Trade Agreement Implementation Act, 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—

(A) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before the date on which the USMCA enters into force; and

(B) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before the date on which the USMCA enters into force.

SEC. 505. GOVERNMENT PROCUREMENT.

(a) **GENERAL AUTHORITY TO MODIFY DISCRIMINATORY PURCHASING REQUIREMENTS.**—Section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511) is amended—

(1) in subsection (b)(1), by striking “the North American Free Trade Agreement” and inserting “the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”; and

(2) in subsection (e)—

(A) by striking “Annex 1001.1a–2 of the North American Free Trade Agreement” and inserting “Annex 13–A of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”; and

(B) by striking “chapter 10 of such Agreement” and inserting “chapter 13 of the USMCA”.

(b) **DEFINITIONS.**—Section 308(4)(A)(ii) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)(ii)) is amended—

(1) by striking “a party to the North American Free Trade Agreement,” and inserting “Mexico, as a party to the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act),”; and

(2) by striking “the North American Free Trade Agreement for” and inserting “the USMCA for”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by subsections

(a) and (b) shall—

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

(B) apply with respect to a procurement on or after that date.

(2) **TRANSITION FROM NAFTA TREATMENT.**—In the case of a procurement before the date on which the USMCA enters into force—

(A) the amendments made by subsections (a) and (b) to sections 301 and 308 of the Trade Agreements Act of 1979 (19 U.S.C. 2511 and 2518) shall not apply with respect to the contract; and

(B) sections 301 and 308 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the contract.

SEC. 506. ACTIONS AFFECTING UNITED STATES CULTURAL INDUSTRIES.

(a) IN GENERAL.—Section 182(f) of the Trade Act of 1974 (19 U.S.C. 2242(f)) is amended—

(1) in paragraph (1)(C), by striking “article 2106 of the North American Free Trade Agreement” and inserting “article 32.6 of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “article 2106 of the North American Free Trade Agreement” and inserting “article 32.6 of the USMCA”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the USMCA enters into force.

SEC. 507. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) IN GENERAL.—Section 1017(c) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–6(c)) is amended by striking “North American Free Trade Agreement” and inserting “USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the USMCA enters into force.

SEC. 508. REPORT ON AMENDMENTS TO EXISTING LAW.

Not later than 180 days after the date of the enactment of this Act, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report setting forth a proposal for technical and conforming amendments to the laws under the jurisdiction of such committees, and other laws, necessary to fully carry out the provisions of, and amendments made by, this Act.

TITLE VI—TRANSITION TO AND EXTENSION OF USMCA

Subtitle A—Transitional Provisions

SEC. 601. REPEAL OF NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT.

The North American Free Trade Agreement Implementation Act (Public Law 103–182; 19 U.S.C. 3301 et seq.) is repealed, effective on the date on which the USMCA enters into force.

SEC. 602. CONTINUED SUSPENSION OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.

Section 501(c)(3) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Public Law 100–449; 19 U.S.C. 2112 note) is amended—

(1) in the paragraph heading, by striking “NAFTA” and inserting “USMCA”; and

(2) in the matter preceding subparagraph (A), by striking “between them of the North American Free Trade Agreement” and inserting “of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)”.

Subtitle B—Joint Reviews Regarding Extension of USMCA

SEC. 611. PARTICIPATION IN JOINT REVIEWS WITH CANADA AND MEXICO REGARDING EXTENSION OF THE TERM OF THE USMCA AND OTHER ACTION REGARDING THE USMCA.

(a) IN GENERAL.—Pursuant to the requirements of this section, the President shall consult with the appropriate congressional committees and stakeholders before each joint review, including consultation with respect to—

(1) any recommendation for action to be proposed at the review; and

(2) the decision whether or not to confirm that the United States wishes to extend the USMCA.

(b) CONSULTATIONS WITH CONGRESS AND STAKEHOLDERS.—

(1) PUBLICATION AND PUBLIC HEARING.—At least 270 days before a joint review commences, the Trade Representative shall publish in the Federal Register a notice regarding the joint review and shall, as soon as possible following such publication, provide opportunity for the presentation of views relating to the operation of the USMCA, including a public hearing.

(2) REPORT TO CONGRESS.—At least 180 days before a 6-year joint review under article 34.7 of the USMCA commences, the Trade Representative shall report to the appropriate congressional committees regarding—

(A) the assessment of the Trade Representative with respect to the operation of the USMCA;

(B) the precise recommendation for action to be proposed at the review and the position of the United States with respect to whether to extend the term of the USMCA;

(C) what, if any, prior efforts have been made to resolve any concern that underlies that recommendation or position; and

(D) the views of the advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding that recommendation or position.

(c) SUBSEQUENT ACTION TO ADDRESS LACK OF AGREEMENT ON TERM EXTENSION.—

(1) IN GENERAL.—If, as part of a joint review, any USMCA country does not confirm that the country wishes to extend the term of the USMCA under article 34.7.3 of the USMCA, at least 70 days before any subsequent annual joint review meeting conducted as required under article 34.7 of the USMCA, the Trade Representative shall report to the appropriate congressional committees regarding—

(A) any reason offered by a USMCA country regarding why the country is unable to agree to extend the term of the USMCA;

(B) the progress that has been made in efforts to achieve resolution of the concerns of that country;

(C) any proposed action that the Trade Representative intends to raise during the meeting; and

(D) the views of the advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding the reasons described in subparagraph (A) and any proposed action under subparagraph (C).

(2) ADDITIONAL INFORMATION.—The Trade Representative shall also provide detailed and timely information in response to any questions posed by the appropriate congressional committees with respect to any meeting described in paragraph (1), including by submitting to those committees copies of any proposed text that the Trade Representative plans to submit to the other parties to the meeting.

(d) CONGRESSIONAL ENGAGEMENT AFTER JOINT REVIEW.—

(1) IN GENERAL.—Not later than 20 days after the USMCA countries have met for a joint review, the Trade Representative shall brief the appropriate congressional committees regarding the positions expressed by the countries during the joint review and what, if any, actions were agreed to by the countries.

(2) CONTINUED ENGAGEMENT.—After a joint review, the Trade Representative shall keep the appropriate congressional committees timely apprised of any developments arising out of or related to the review.

(e) DEFINITIONS.—In this section:

(1) JOINT REVIEW.—The term “joint review” means a review conducted under the process provided for in article 34.7 of the USMCA relating to extension of the term of the USMCA.

(2) USMCA COUNTRY.—The term “USMCA country” has the meaning given that term in section 202(a).

Subtitle C—Termination of USMCA

SEC. 621. TERMINATION OF USMCA.

(a) TERMINATION OF USMCA COUNTRY STATUS.—During any period in which a country ceases to be a USMCA country, this Act (other than this subsection and title IX) and the amendments made by this Act shall cease to have effect with respect to that country.

(b) TERMINATION OF USMCA.—On the date on which the USMCA ceases to be in force with respect to the United States, this Act and the amendments made by this Act (other than this subsection and title IX) shall cease to have effect.

TITLE VII—LABOR MONITORING AND ENFORCEMENT

SEC. 701. DEFINITIONS.

In this title:

(1) LABOR ATTACHÉ.—The term “labor attaché” means an individual hired under subtitle B.

(2) LABOR OBLIGATIONS.—The term “labor obligations” means the obligations under chapter 23 of the USMCA (relating to labor).

(3) MEXICO'S LABOR REFORM.—The term “Mexico’s labor reform” means the legislation on labor reform enacted by Mexico on May 1, 2019.

Subtitle A—Interagency Labor Committee for Monitoring and Enforcement

SEC. 711. INTERAGENCY LABOR COMMITTEE FOR MONITORING AND ENFORCEMENT.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish an Interagency Labor Committee for Monitoring and Enforcement (in this title referred to as the “Interagency Labor Committee”), to coordinate United States efforts with respect to each USMCA country—

(1) to monitor the implementation and maintenance of the labor obligations;

(2) to monitor the implementation and maintenance of Mexico’s labor reform; and

(3) to request enforcement actions with respect to a USMCA country that is not in compliance with such labor obligations.

(b) MEMBERSHIP.—The Interagency Labor Committee shall—

(1) be co-chaired by the Trade Representative and the Secretary of Labor; and

(2) include representatives of such other Federal departments or agencies with relevant expertise as the President determines appropriate.

(c) MEETINGS.—The Interagency Labor Committee shall meet at least once every 90 days during the 5-year period beginning on the date of the enactment of this Act, and at least once every 180 days thereafter for 5 years.

(d) INFORMATION SHARING.—Notwithstanding any other provision of law, the members of the Interagency Labor Committee may exchange information for purposes of carrying out this title.

SEC. 712. DUTIES.

The duties of the Interagency Labor Committee shall include the following:

(1) Coordinating the activities of departments and agencies of the Committee in monitoring implementation of and compliance with labor obligations, including by—

(A) requesting and reviewing relevant information from the governments of USMCA countries and from the public;

(B) coordinating visits to Mexico as necessary to assess implementation of Mexico’s labor reform and compliance with the labor obligations of Mexico;

(C) receiving and reviewing quarterly assessments from the labor attachés with respect to the implementation of and compliance with Mexico’s labor reform; and

(D) coordinating with the Secretary of Treasury with respect to support relating to labor issues provided to Mexico by the Inter-American Development Bank.

(2) Establishing an ongoing dialogue with appropriate officials of the Government of Mexico regarding the implementation of Mexico’s labor reform and compliance with its labor obligations.

(3) Coordinating with other institutions and governments with respect to support relating to labor issues, such as the International Labour Organization and the Government of Canada.

(4) Identifying priority issues for capacity-building activities in Mexico to be funded by the United States, drawing primarily on the expertise of the Department of Labor.

(5) Meeting, at least biannually during the 5-year period beginning on the date of the enactment of this Act and at least annually for 5 years thereafter, with the Labor Advisory Committee for Trade Negotiations and Trade Policy established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or any successor advisory committee) to consult and provide opportunities for input with respect to—

- (A) the implementation of Mexico's labor reform;
- (B) labor capacity-building activities in Mexico funded by the United States;
- (C) labor monitoring efforts;
- (D) labor enforcement priorities; and
- (E) other relevant issues.

(6) Based on the assessments required by section 714, making recommendations relating to dispute settlement actions to the Trade Representative, in accordance with section 715.

(7) Based on reports provided by the Forced Labor Enforcement Task Force under section 743, developing recommendations for appropriate enforcement actions by the Trade Representative.

(8) Reviewing reports submitted by the labor experts appointed in accordance with Annex 31-A of the USMCA, with respect to the functioning of that Annex.

(9) Reviewing reports submitted by the Independent Mexico Labor Expert Board under section 734.

SEC. 713. ENFORCEMENT PRIORITIES.

The Interagency Labor Committee shall—

(1) review the list of priority sectors under Annex 31-A of the USMCA and suggest to USTR additional sectors for review by the USMCA countries as appropriate;

(2) establish and annually update a list of priority subsectors within such priority sectors to be the focus of the enforcement efforts of the Committee, the first of which shall consist of—

- (A) auto assembly;
- (B) auto parts;
- (C) aerospace;
- (D) industrial bakeries;
- (E) electronics;
- (F) call centers;
- (G) mining; and
- (H) steel and aluminum; and

(3) review priority facilities within such priority subsectors for monitoring and enforcement.

SEC. 714. ASSESSMENTS.

(a) ONGOING ASSESSMENTS.—For the 10-year period beginning on the date of the enactment of this Act, except as provided in subsection (b), the Interagency Labor Committee shall assess on

a biannual basis the extent to which Mexico is in compliance with its obligations under Annex 23–A of the USMCA.

(b) **CONSULTATION RELATING TO ANNUAL ASSESSMENT.**—On or after the date that is 5 years after the date of the enactment of this Act, the Interagency Labor Committee may consult with the appropriate congressional committees with respect to the frequency of the assessment required under subsection (a) and, with the approval of both such committees, may conduct such assessment on an annual basis for the following 5 years.

(c) **MATTERS TO BE INCLUDED.**—The assessment required under subsection (a) shall also include each of the following:

(1) Whether Mexico is providing adequate funding to implement and enforce Mexico’s labor reform, including specifically whether Mexico has provided funding consistent with commitments made to contribute the following amounts for the labor reform implementation budget:

(A) \$176,000,000 for 2021.

(B) \$325,000,000 for 2022.

(C) \$328,000,000 for 2023.

(2) The extent to which any legal challenges to Mexico’s labor reform have succeeded in that court system.

(3) The extent to which Mexico has implemented the federal and state labor courts, registration entity, and federal and state conciliation centers consistent with the timeline set forth for Mexico’s labor reform, in the September 2019 policy statements by the Government of Mexico on a national strategy for implementation of the labor justice system, and in subsequent policy statements in accordance with Mexico’s labor reform.

SEC. 715. RECOMMENDATION FOR ENFORCEMENT ACTION.

(a) **RECOMMENDATION TO INITIATE.**—If the Interagency Labor Committee determines, pursuant to an assessment under section 714, as a result of monitoring activities described in section 712(1), or pursuant to a report of the Independent Mexico Labor Expert Board that a USMCA country has failed to meet its labor obligations, including with respect to obligations under Annex 23–A of the USMCA, the Committee shall recommend that the Trade Representative initiate enforcement actions under—

(1) article 23.13 or 23.17 of the USMCA (relating to cooperative labor dialogue and labor consultations);

(2) articles 31.4 and 31.6 of the USMCA (relating to dispute settlement consultations); or

(3) Annex 31–A of the USMCA (relating to the rapid response labor mechanism).

(b) **TRADE REPRESENTATIVE DETERMINATIONS.**—Not later than 60 days after the date on which the Trade Representative receives a recommendation pursuant to subsection (a), the Trade Representative shall—

(1) determine whether to initiate an enforcement action; and

(2) if such determination is negative, submit to the appropriate congressional committees a report on the reasons for such negative determination.

SEC. 716. PETITION PROCESS.

(a) **IN GENERAL.**—The Interagency Labor Committee shall establish procedures for submissions by the public of information

with respect to potential failures to implement the labor obligations of a USMCA country.

(b) FACILITY-SPECIFIC PETITIONS.—With respect to information submitted in accordance with the procedures established under subsection (a) accompanying a petition relating to a denial of rights at a covered facility, as such terms are defined for purposes of Annex 31–A of the USMCA:

(1) The Interagency Labor Committee shall review such information within 30 days of submission and shall determine whether there is sufficient, credible evidence of a denial of rights (as so defined) enabling the good-faith invocation of enforcement mechanisms.

(2) If the Committee reaches a negative determination under paragraph (1), the Committee shall certify such determination to the appropriate congressional committees and the petitioner.

(3) If the Committee reaches an affirmative determination under paragraph (1), the Trade Representative shall submit a request for review, in accordance with article 31–A.4 of such Annex, with respect to the covered facility and shall inform the petitioner and the appropriate congressional committees of the submission of such request.

(4) Not later than 60 days after the date of an affirmative determination under paragraph (1), the Trade Representative shall—

(A) determine whether to request the establishment of a rapid response labor panel in accordance with such Annex; and

(B) if such determination is negative, certify such determination to the appropriate congressional committees in conjunction with the reasons for such determination and the details of any agreed-upon remediation plan.

(c) OTHER PETITIONS.—With respect to information submitted in accordance with the procedures established under subsection (a) accompanying a petition relating to any other violation of the labor obligations of a USMCA country:

(1) The Interagency Labor Committee shall review such information not later than 20 days after the date of the submission and shall determine whether the information warrants further review.

(2) If the Committee reaches an affirmative determination under paragraph (1), such further review shall focus exclusively on determining, not later than 60 days after the date of such submission, whether there is sufficient, credible evidence that the USMCA country is in violation of its labor obligations, for purposes of initiating enforcement action under chapter 23 or chapter 31 of the USMCA.

(3) If the Committee reaches an affirmative determination under paragraph (2), the Trade Representative shall—

(A) not later than 60 days after the date of the determination of the Committee, initiate appropriate enforcement action under such chapter 23 or chapter 31; or

(B) submit to the appropriate congressional committees a notification including the reasons for which action was not initiated within such 60-day period.

SEC. 717. HOTLINE.

The Interagency Labor Committee shall establish a web-based hotline, monitored by the Department of Labor, to receive confidential information regarding labor issues among USMCA countries directly from interested parties, including Mexican workers.

SEC. 718. REPORTS.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter for 10 years except as provided in subsection (b), the Interagency Labor Committee shall submit to the appropriate congressional committees a report that includes—

(1) a description of Committee staffing and capacity building activities with Mexico;

(2) information regarding the budget resources for Mexico's labor reform and the deadlines in the September 2019 policy statements by the Government of Mexico on a national strategy for implementation of the labor justice system and in subsequent policy statements in accordance with Mexico's labor reform;

(3) a summary of petitions filed in accordance with section 716 and the use of the rapid response labor mechanism under Annex 31–A of the USMCA;

(4) the results of the most recent assessment conducted under section 714; and

(5) if, with respect to any report of the Independent Mexico Labor Expert Board submitted under section 734 that includes a determination described in paragraph (2) of such section, the Interagency Labor Committee does not concur with such determination, an explanation of the reasons for not concurring in such determination and a commitment to provide an oral briefing with respect to such explanation upon request.

(b) **CONSULTATION RELATING TO ANNUAL ASSESSMENT.**—On or after the date that is 5 years after the date of the enactment of this Act, the Trade Representative and the Secretary of Labor may consult with the appropriate congressional committees with respect to the frequency of the reports required under subsection (a) and, with the approval of both such committees, may submit such report on an annual basis for the following 5 years.

(c) **FIVE-YEAR ASSESSMENT.**—Not later than the date that is 5 years after the date of the establishment of the Interagency Labor Committee pursuant to section 711(a), the Committee shall jointly submit to the appropriate congressional committees—

(1) a comprehensive assessment of the implementation of Mexico's labor reform, including with respect to—

(A) whether Mexico has reviewed and legitimized all existing collective bargaining agreements in Mexico;

(B) whether Mexico has addressed the pre-existing legal or administrative labor disputes;

(C) whether Mexico has established the Federal Center for Conciliation and Labor Registration, and an assessment of that Center's operation;

(D) whether Mexico has established the federal labor courts, and an assessment of their operation; and

(E) whether Mexico has established the state conciliation centers and labor courts in all states and an assessment of their operation; and

(2) a strategic plan and recommendations for actions to address areas of concern relating to the implementation of Mexico's labor reform, for purposes of the joint review conducted pursuant to article 34.7 of the USMCA on the sixth anniversary of the entry into force of the USMCA.

SEC. 719. CONSULTATIONS ON APPOINTMENT AND FUNDING OF RAPID RESPONSE LABOR PANELISTS.

(a) **IN GENERAL.**—The Interagency Labor Committee shall consult with the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) and the Advisory Committee for Trade Policy and Negotiations established under section 135(b) of such Act (or successor advisory committees) and the appropriate congressional committees with respect to the selection and appointment of candidates for the rapid response labor panelists described in Annex 31–A of the USMCA.

(b) **FUNDING.**—The United States, in consultation with Mexico, shall provide adequate funding for rapid response labor panelists to carry out the responsibilities under the USMCA promptly and fully.

Subtitle B—Mexico Labor Attachés

SEC. 721. ESTABLISHMENT.

The Secretary of Labor shall—

(1) hire and fix the compensation of up to 5 additional full-time officers or employees of the Department of Labor; and

(2) detail or assign such officers or employees to the United States Embassy or a United States Consulate in Mexico to carry out the duties described in section 722.

SEC. 722. DUTIES.

The duties described in this section are the following:

(1) Assisting the Interagency Labor Committee to monitor and enforce the labor obligations of Mexico.

(2) Submitting to the Interagency Labor Committee on a quarterly basis reports on the efforts undertaken by Mexico to comply with its labor obligations.

SEC. 723. STATUS.

Any officer or employee, while detailed or assigned under this subtitle, shall be considered, for the purpose of preserving their allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and shall continue to receive compensation, allowances, and benefits from program funds appropriated to that agency or made available to that agency for purposes related to the activities of the detail or assignment, in accordance with authorities related to their employment status and agency policies.

Subtitle C—Independent Mexico Labor Expert Board

SEC. 731. ESTABLISHMENT.

There is hereby established a board, to be known as the “Independent Mexico Labor Expert Board”, to be responsible for monitoring and evaluating the implementation of Mexico’s labor reform and compliance with its labor obligations. The Board shall also advise the Interagency Labor Committee with respect to capacity-building activities needed to support such implementation and compliance.

SEC. 732. MEMBERSHIP; TERM.

(a) **MEMBERSHIP.**—The Board shall be composed of 12 members who shall be appointed as follows:

(1) Four members to be appointed by the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or successor advisory committee).

(2) Two members appointed by the Speaker of the House of Representatives, in consultation with the Chair of the Committee on Ways and Means of the House of Representatives.

(3) Two members appointed by the president pro tempore of the Senate from among individuals recommended by the majority leader of the Senate and in consultation with the Chair of the Committee on Finance of the Senate.

(4) Two members appointed by the minority leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Ways and Means of the House of Representatives.

(5) Two members appointed by the President pro tempore of the Senate from among individuals recommended by the minority leader of the Senate and in consultation with the Ranking Member of the Committee on Finance of the Senate.

(b) **TERM.**—Except as provided in subsection (c), members of the Board shall serve for a term of 6 years.

(c) **EXTENSION OF TERM.**—If the Board determines, at the end of the 6-year period beginning on the date of the appointment of the last member appointed in accordance with subsection (a), that Mexico is not fully in compliance with its labor obligations, a majority of the members of the Board may determine to extend its term for 4 additional years. A new Board shall be appointed in accordance with subsection (a) and shall serve for a single term of 4 years.

SEC. 733. FUNDING.

The United States shall provide necessary funding to support the work of the Board, including with respect to translation services and personnel support.

SEC. 734. REPORTS.

For the 6-year period beginning on the date of the enactment of this Act, and for an additional 4 years if the term of the Board is extended in accordance with section 732(c), the Board shall submit to appropriate congressional committees and to the Interagency Labor Committee an annual report that—

- (1) contains an assessment of—
 - (A) the efforts of Mexico to implement Mexico’s labor reform; and
 - (B) the manner and extent to which labor laws are generally enforced in Mexico; and
- (2) may include a determination that Mexico is not in compliance with its labor obligations.

Subtitle D—Forced Labor

SEC. 741. FORCED LABOR ENFORCEMENT TASK FORCE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Forced Labor Enforcement Task Force to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(b) MEMBERS; MEETINGS.—

(1) MEMBERS.—The Task Force shall be chaired by the Secretary of Homeland Security and shall be comprised of representatives from such other agencies with relevant expertise, including the Office of the United States Trade Representative and the Department of Labor, as the President determines appropriate.

(2) MEETINGS.—The Task Force shall meet on a quarterly basis regarding active Withhold and Release Orders, ongoing investigations, petitions received, and enforcement priorities, and other relevant issues with respect to enforcing the prohibition under section 307 of the Tariff Act.

SEC. 742. TIMELINE REQUIRED.

(a) IN GENERAL.—Not later than 90 days after the establishment of the Forced Labor Enforcement Task Force pursuant to section 741(a), the Task Force shall establish timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection alleging that goods are being imported by or with child or forced labor.

(b) CONSULTATION REQUIRED.—In establishing the timelines during such 90-day period, the Task Force shall consult with the appropriate congressional committees.

(c) REPORT.—The Task Force shall timely submit to the appropriate congressional committees a report that contains the timelines established pursuant to subsection (a) and shall make such report publicly available.

SEC. 743. REPORTS REQUIRED.

The Forced Labor Enforcement Task Force shall submit to appropriate congressional committees a biannual report that includes the following:

- (1) The enforcement activities and priorities of the Department of Homeland Security with respect to enforcing the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).
- (2) The number of instances in which merchandise was denied entry pursuant to such prohibition during the preceding 180-day period.
- (3) A description of the merchandise so denied entry.

(4) An enforcement plan regarding goods included in the most recent “Findings on the Worst Forms of Child Labor” report submitted in accordance with section 504 of the Trade Act of 1974 (19 U.S.C. 2464) and “List of Goods Produced by Child Labor or Forced Labor” submitted in accordance with section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)(2)(C)).

(5) Such other information as the Forced Labor Enforcement Task Force considers appropriate with respect to monitoring and enforcing compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 744. DUTIES RELATED TO MEXICO.

The Task Force shall—

(1) develop, in consultation with the appropriate congressional committees, an enforcement plan regarding goods produced by or with forced labor in Mexico; and

(2) report to the Interagency Labor Committee with respect to any concerns relating to the enforcement of the prohibition under section 307 of the Tariff Act with respect to Mexico, including any allegations that may be filed with respect to forced labor in Mexico.

Subtitle E—Enforcement Under Rapid Response Labor Mechanism

SEC. 751. TRANSMISSION OF REPORTS.

Each report issued by a rapid response labor panel constituted in accordance with Annex 31–A of the USMCA shall be immediately submitted to the appropriate congressional committees, the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or successor advisory committee), and, as appropriate, the petitioner submitting information pursuant to section 716. The Trade Representative shall also make each such report publicly available in a timely manner.

SEC. 752. SUSPENSION OF LIQUIDATION.

(a) **IN GENERAL.**—If the United States files a request pursuant to article 31–A.4.2 of Annex 31–A of the USMCA, the Trade Representative may direct the Secretary of the Treasury to suspend liquidation for unliquidated entries of goods from such covered facility until such time as the Trade Representative notifies the Secretary that a condition described in subsection (b) has been met.

(b) **RESUMPTION OF LIQUIDATION.**—The conditions described in this subsection are the following:

(1) The rapid response labor panel has determined that there is no denial of rights at the covered facility within the meaning of such terms under Annex 31–A of the USMCA.

(2) A course of remediation for denial of rights has been agreed to and has been completed in accordance with the agreed-upon time.

(3) The denial of rights has been otherwise remedied.

SEC. 753. FINAL REMEDIES.

(a) **IN GENERAL.**—If a rapid response labor panel constituted in accordance with Annex 31–A of the USMCA determines with respect to a case that there has been a denial of rights within the meaning of such Annex, the Trade Representative may, in consultation with the appropriate congressional committees—

(1) direct the Secretary of the Treasury, until the date of the notification described in subsection (b) and in accordance with Annex 31–A of the USMCA—

(A) to—

(i) deny entry to goods, produced wholly or in part, from any covered facility involved in such case; or

(ii) allow for the release of goods, produced wholly or in part, from such covered facilities only upon payment of duties and any penalty; and

(B) to apply any duties or penalties to customs entries for which liquidation was suspended pursuant to section 752; and

(2) apply other remedies that are appropriate and available under Annex 31–A of the USMCA, until the denial of rights with respect to the case has been remedied.

(b) **REMEDIATION NOTIFICATION.**—The Trade Representative shall promptly notify the Secretary when the denial of rights with respect to a case described in subsection (a) has been remedied.

TITLE VIII—ENVIRONMENT MONITORING AND ENFORCEMENT

SEC. 801. DEFINITIONS.

In this title:

(1) **ENVIRONMENTAL LAW.**—The term “environmental law” has the meaning given the term in article 24.1 of the USMCA.

(2) **ENVIRONMENTAL OBLIGATIONS.**—The term “environmental obligations” means obligations relating to the environment under—

(A) chapter 1 of the USMCA (relating to initial provisions and general definitions); and

(B) chapter 24 of the USMCA (relating to environment).

Subtitle A—Interagency Environment Committee for Monitoring and Enforcement

SEC. 811. ESTABLISHMENT.

(a) **IN GENERAL.**—Not later than 30 days after the date of the enactment of this Act, the President shall establish an Interagency Environment Committee for Monitoring and Enforcement (in this title referred to as the “Interagency Environment Committee”)—

(1) to coordinate United States efforts to monitor and enforce environmental obligations generally; and

(2) with respect to the USMCA countries—

(A) to carry out an assessment of their environmental laws and policies;

(B) to carry out monitoring actions with respect to the implementation and maintenance of their environmental obligations; and

(C) to request enforcement actions with respect to USMCA countries that are not in compliance with their environmental obligations.

(b) **MEMBERSHIP.**—The members of the Interagency Environment Committee shall be the following:

(1) The Trade Representative, who shall serve as chairperson.

(2) Representatives from each of the following:

(A) The National Oceanic Atmospheric Administration.

(B) The U.S. Fish and Wildlife Service.

(C) The U.S. Forest Service.

(D) The Environmental Protection Agency.

(E) The Animal and Plant Health Inspection Service.

(F) U.S. Customs and Border Protection.

(G) The Department of State.

(H) The Department of Justice.

(I) The Department of the Treasury.

(J) The United States Agency for International Development.

(3) Representatives from other Federal agencies, as the President determines to be appropriate.

(c) **INFORMATION SHARING.**—Notwithstanding any other provision of law, the members of the Interagency Environment Committee may exchange information for purposes of carrying out this subtitle.

SEC. 812. ASSESSMENT.

(a) **IN GENERAL.**—The Interagency Environment Committee shall carry out an assessment of the environmental laws and policies of the USMCA countries—

(1) to determine if such laws and policies are sufficient to implement their environmental obligations; and

(2) to identify any gaps between such laws and policies and their environmental obligations.

(b) **MATTERS TO BE INCLUDED.**—The assessment required by subsection (a) shall identify the environmental laws and policies of the USMCA countries with respect to which enhanced cooperation, including the provision of technical assistance and capacity building assistance, monitoring actions, and enforcement actions, if appropriate, should be carried out on an enhanced and continuing basis.

(c) **REPORT.**—Not later than 90 days after the date on which the Interagency Environment Committee is established, or the date on which the USMCA enters into force, whichever occurs earlier, the Interagency Environment Committee shall submit a report that contains the assessment required by subsection (a) to—

(1) the appropriate congressional committees; and

(2) the Trade and Environment Policy Advisory Committee (or successor advisory committee) established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)).

(d) **UPDATE.**—The Interagency Environment Committee shall—

(1) update the assessment required by subsection (a) at the appropriate time prior to submission of the report required by section 816(a) that is to be submitted in the fifth year after the USMCA enters into force; and

(2) submit the updated assessment to the Trade Representative for inclusion in such fifth annual report.

(e) CONSULTATION.—The Interagency Environment Committee shall consult on a regular basis with the USMCA countries—

(1) in carrying out the assessment required by subsection (a) and the update to the assessment required by subsection (d); and

(2) in preparing the report required by subsection (c).

SEC. 813. MONITORING ACTIONS.

(a) IN GENERAL.—The Interagency Environment Committee shall carry out monitoring actions, which shall include the monitoring actions described in subsections (b), (c), and (d), with respect to the implementation and maintenance of the environmental obligations of the USMCA countries.

(b) REVIEW OF CEC SECRETARIAT SUBMISSIONS.—

(1) IN GENERAL.—Not later than 30 days after the date on which the Secretariat of the Commission for Environmental Cooperation prepares a factual record under article 24.28 of the USMCA relating to a submission filed under article 24.27 of the USMCA with respect to a USMCA country, the Interagency Environment Committee—

(A) shall review the factual record; and

(B) may, based on findings of the review under subparagraph (A) that the USMCA country is not in compliance with its environmental obligations, request enforcement actions under section 814 with respect to the USMCA country.

(2) WRITTEN JUSTIFICATION.—If the Interagency Environment Committee finds that a USMCA country is not in compliance with its environmental obligations under paragraph (1)(B) and determines not to request enforcement actions under section 814 with respect to the USMCA country, the Committee shall, not later than 30 days after the date on which it makes the determination, provide to the appropriate congressional committees a written explanation and justification of the determination.

(c) REVIEW OF REPORTS OF UNITED STATES ENVIRONMENT ATTACHÉS TO MEXICO.—The Interagency Environment Committee shall—

(1) review each report submitted to the Committee under section 822(b)(2); and

(2) based on the findings of each such report, assess the efforts of Mexico to comply with its environmental obligations.

(d) UNITED STATES IMPLEMENTATION OF ENVIRONMENT COOPERATION AND CUSTOMS VERIFICATION AGREEMENT.—

(1) VERIFICATION OF SHIPMENTS.—The Interagency Environment Committee—

(A) may request verification of particular shipments of Mexico under the Environment Cooperation and Customs Verification Agreement between the United States and Mexico, done at Mexico City on December 10, 2019, in response to—

(i) comments submitted by the public to request verification of particular shipments of Mexico under such Agreement; or

(ii) on its own motion; and

(B) upon receipt of comments described in subparagraph (A)(i)—

(i) shall review the comments not later than 30 days after the date on which the comments are submitted to the Trade Representative; and

(ii) may request the Trade Representative to, within a reasonable period of time, request Mexico to provide relevant information for purposes of verification of particular shipments of Mexico described in subparagraph (A).

(2) REVIEW OF RELEVANT INFORMATION AND REQUEST FOR ADDITIONAL STEPS.—The Interagency Environment Committee—

(A) shall review relevant information provided by Mexico as described in paragraph (1)(B)(ii) to determine if the Trade Representative should request additional steps to verify information provided or related to a particular shipment of Mexico; and

(B) may request the Trade Representative to, within a reasonable period of time, request Mexico to take such additional steps with respect to the particular shipment.

(3) CONSULTATION.—The Trade Representative, on behalf of the Interagency Environment Committee, shall, on a quarterly basis, consult with the appropriate congressional committees and the Trade and Environment Policy Advisory Committee (or successor advisory committee) established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) regarding the public comments and relevant information described in paragraph (1) and the actions taken under paragraph (2).

(e) APPLICATION.—Subsections (c) and (d) shall apply with respect to Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.

SEC. 814. ENFORCEMENT ACTIONS.

The Interagency Environment Committee—

(1) may request the Trade Representative to, within a reasonable period of time, request consultations under—

(A) article 24.29 of the USMCA (relating to environment consultations) with respect to the USMCA country; or

(B) articles 31.4 and 31.6 of the USMCA (relating to dispute settlement consultations) with respect to the USMCA country; or

(2) may request the heads of other Federal agencies described in section 815 to initiate monitoring or enforcement actions with respect to the USMCA country under the provisions of law described in section 815.

SEC. 815. OTHER MONITORING AND ENFORCEMENT ACTIONS.

(a) MARINE MAMMAL PROTECTION ACT.—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) **MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.**—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the following provisions of law:

(1) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891 et seq.).

(3) The High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.).

(4) The Shark Conservation Act of 2010 (16 U.S.C. 1826k note; 1857 note).

(5) The Shark Finning Prohibition Act (16 U.S.C. 1822 note).

(c) **FISHERMEN'S PROTECTIVE ACT OF 1967.**—The Secretary of Commerce and Secretary of the Interior have authority to take appropriate monitoring or enforcement actions under section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978).

(d) **AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING.**—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the Port State Measures Agreement Act of 2015 (16 U.S.C. 7401 et seq.).

(e) **ENDANGERED SPECIES ACT.**—The Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, the Secretary of Commerce, and the Secretary of the Treasury have authority to take appropriate monitoring or enforcement actions under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(f) **LACEY ACT.**—The Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury have authority to take appropriate monitoring or enforcement actions under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(g) **MIGRATORY BIRD TREATY ACT.**—The Secretary of the Interior has authority to take appropriate monitoring or enforcement actions under the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 et seq.).

(h) **ELIMINATE, NEUTRALIZE, AND DISRUPT WILDLIFE TRAFFICKING ACT.**—The Secretary of State, the Secretary of the Interior, the Attorney General, and Administrator of the United States Agency for International Development have authority to take appropriate monitoring or enforcement actions under the Eliminate, Neutralize, and Disrupt Wildlife Trafficking Act of 2016 (16 U.S.C. 7601 et seq.).

(i) **WILD BIRD CONSERVATION ACT.**—The Secretary of the Interior has authority to take appropriate monitoring or enforcement actions under the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 et seq.).

(j) **CUSTOMS SEIZURE AND OTHER AUTHORITIES.**—The Secretary of Homeland Security has authority to take appropriate monitoring or enforcement actions under section 499 of the Tariff Act of 1930 (19 U.S.C. 1499) or section 596 of such Act (19 U.S.C. 1595a).

(k) **OTHER RELEVANT PROVISIONS OF LAW.**—The Interagency Environment Committee may request the heads of other Federal

agencies to take appropriate monitoring or enforcement actions under other relevant provisions of law.

(1) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to supersede or otherwise limit in any manner the functions or authority of the head of any Federal agency described in this section under any other provision of law.

SEC. 816. REPORT TO CONGRESS.

(a) **IN GENERAL.**—The Trade Representative, in consultation with the head of any Federal agency described in this subtitle, shall submit to the appropriate congressional committees a report on the implementation of this subtitle, including—

(1) a description of efforts of the USMCA countries to implement their environmental obligations; and

(2) a description of additional efforts to be taken with respect to USMCA countries that are failing to implement their environmental obligations.

(b) **TIMING OF REPORT.**—The report required by subsection (a) shall be submitted—

(1) not later than 1 year after the date on which the USMCA enters into force;

(2) annually for each of the next 4 years; and

(3) biennially thereafter.

(c) **ADDITIONAL MATTERS TO BE INCLUDED IN THE FIFTH ANNUAL REPORT.**—The report required by subsection (a) that is submitted in the fifth year after the USMCA enters into force shall also include the following:

(1) The updated assessment required by section 812(d).

(2) A comprehensive determination regarding USMCA countries' implementation of their environmental obligations.

(3) An explanation of how compliance with environmental obligations will be taken into consideration during the “joint review” conducted pursuant to article 34.7.2 of the USMCA on the sixth anniversary of the entry into force of the USMCA.

SEC. 817. REGULATIONS.

The head of any Federal agency described in this subtitle, in consultation with the Interagency Environment Committee, may prescribe such regulations as are necessary to carry out the authorities of the Federal agency as provided for under this subtitle.

Subtitle B—Other Matters

SEC. 821. BORDER WATER INFRASTRUCTURE IMPROVEMENT AUTHORITY.

(a) **IN GENERAL.**—The Administrator of the Environmental Protection Agency shall, in coordination with eligible public entities, carry out the planning, design, construction, and operation and maintenance of high priority treatment works in the covered area to treat wastewater (including stormwater), nonpoint sources of pollution, and related matters resulting from international trans-boundary water flows originating in Mexico.

(b) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to Congress a report on activities carried out pursuant to this section.

(c) **DEFINITIONS.**—In this section:

(1) COVERED AREA.—The term “covered area” means the portion of the Tijuana River watershed that is in the United States.

(2) ELIGIBLE PUBLIC ENTITIES.—The term “eligible public entities” means—

(A) the United States Section of the International Boundary and Water Commission;

(B) the Corps of Engineers;

(C) the North American Development Bank;

(D) the Department of State;

(E) any other appropriate Federal agency;

(F) the State of California; and

(G) any of the following entities with jurisdiction over any part of the covered area:

(i) A local government.

(ii) An Indian Tribe.

(iii) A regional water board.

(iv) A public wastewater utility.

(3) TREATMENT WORKS.—The term “treatment works” has the meaning given that term in section 212 of the Federal Water Pollution Control Act.

SEC. 822. DETAIL OF PERSONNEL TO OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Upon the request of the Trade Representative, the Administrator of the Environmental Protection Agency, the Director of the U.S. Fish and Wildlife Service, and the Administrator of the National Oceanic Atmospheric Administration may detail, on a reimbursable basis, one employee of each such respective agency to the Office of the United States Trade Representative to be assigned to the United States Embassy in Mexico to carry out the duties described in subsection (b).

(b) DUTIES.—The duties described in this subsection are the following:

(1) Assist the Interagency Environment Committee to carry out monitoring and enforcement actions with respect to the environmental obligations of Mexico.

(2) Prepare and submit to the Interagency Environment Committee on a quarterly basis a report on efforts of Mexico to comply with its environmental obligations.

Subtitle C—North American Development Bank

SEC. 831. GENERAL CAPITAL INCREASE.

Part 2 of subtitle D of title V of Public Law 103–182 (22 U.S.C. 290m et seq.) is amended by adding at the end the following:

“SEC. 547. FIRST CAPITAL INCREASE.

“(a) SUBSCRIPTION AUTHORIZED.—

“(1) IN GENERAL.—The Secretary of the Treasury is authorized to subscribe on behalf of the United States to, and make payment for, 150,000 additional shares of the capital stock of the Bank.

“(2) LIMITATION.—Any subscription by the United States to the capital stock of the Bank shall be effective only to

such extent and in such amounts as are provided in advance in appropriations Acts.

“(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—In order to pay for the increase in the United States subscription to the Bank under subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$1,500,000,000 for payment by the Secretary of the Treasury.

“(2) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated under paragraph (1)—

“(A) \$225,000,000 shall be for paid in shares of the Bank; and

“(B) \$1,275,000,000 shall be for callable shares of the Bank.”.

SEC. 832. POLICY GOALS.

(a) IN GENERAL.—To the extent consistent with the mission and scope of the North American Development Bank on the day before the date of the enactment of this Act and pursuant to section 2 of article II of the Charter, the Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the Bank to use the voice and vote of the United States to give preference to the financing of projects related to environmental infrastructure relating to water pollution, wastewater treatment, water conservation, municipal solid waste, stormwater drainage, non-point pollution, and related matters.

(b) CHARTER DEFINED.—In this section, the term “Charter” means the Agreement Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank, signed at Washington and Mexico November 16 and 18, 1993, and entered into force January 1, 1994 (TIAS 12516), between the United States and Mexico.

SEC. 833. EFFICIENCIES AND STREAMLINING.

The Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the North American Development Bank to use the voice and vote of the United States to seek to require the Bank to develop and implement efficiency improvements to streamline and accelerate the project certification and financing process, including through initiatives such as single certifications for revolving facilities, programmatic certification of similar groups of small projects, expansion of internal authority to approve qualified projects below certain monetary thresholds, and expedited certification for public sector projects subject to lender bidding processes.

SEC. 834. PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the North American Development Bank to use the voice and vote of the United States to seek to require the Bank to develop performance measures that—

(1) demonstrate how projects and financing approved by the Bank are meeting the Bank’s mission and providing added value to the region near the international land border between the United States and Mexico; and

(2) are reviewed and updated not less frequently than annually.

H. R. 5430—88

(b) REPORT TO CONGRESS.—The Secretary of the Treasury shall submit to Congress, with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, United States Code, a report on progress in imposing the performance measures described in subsection (a) of this section.

TITLE IX—USMCA SUPPLEMENTAL APPROPRIATIONS ACT,
2019

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2020 and for other purposes, namely:

DEPARTMENT OF AGRICULTURE

AGRICULTURAL PROGRAMS

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, for enforcement of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) during fiscal years 2020 through 2023 related to trade activities between the United States and Mexico, \$4,000,000, to remain available until September 30, 2023: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, \$16,000,000, to remain available until September 30, 2023: *Provided*, That \$8,000,000 shall be available to engage in cooperation with the Government of Mexico to combat illegal, unreported, and unregulated fishing and enhance the implementation of the Seafood Import Monitoring Program pursuant to 16 U.S.C. 1826 and 1829, during fiscal years 2020 through 2023: *Provided further*, That \$8,000,000 shall be available to carry out section 3 of the Marine Debris Act (33 U.S.C. 1952) during fiscal years 2020 through 2023 in the North American region: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$50,000,000, to remain available until September 30, 2023: *Provided*, That \$30,000,000 shall be available solely to provide for additional capacity of the Office during fiscal years 2020 through

2023 to monitor compliance with labor obligations (as such term is defined in section 701 of this Act), including the necessary expenses of additional full-time employees to participate in the Interagency Labor Committee for Monitoring and Enforcement established pursuant to section 711 of this Act: *Provided further*, That \$20,000,000 shall be available to reimburse the necessary expenses of personnel participating in the Interagency Environment Committee for Monitoring and Enforcement established pursuant to section 811 of this Act during fiscal years 2020 through 2023 to monitor compliance with environmental obligations (as such term is defined in section 801 of this Act), including up to one additional full-time employee detailed to the United States Embassy in Mexico from each of the United States Fish and Wildlife Service, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration: *Provided further*, That, if the United States Trade Representative determines that the additional amount appropriated under this heading in this Act exceeds the amount sufficient to provide for the reimbursement of personnel specified in the previous proviso, such excess amounts may be used to reimburse the necessary expenses of additional personnel participating in the Interagency Environment Committee for Monitoring and Enforcement during fiscal years 2020 through 2023 to monitor compliance with environmental obligations (as such term is defined in section 801 of this Act): *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TRADE ENFORCEMENT TRUST FUND

For an additional amount for the “Trade Enforcement Trust Fund”, \$40,000,000, to remain available until September 30, 2023, to carry out the enforcement of environmental obligations under the USMCA, including for state-to-state dispute settlement actions, during fiscal years 2020 through 2023: *Provided*, That, amounts appropriated in this paragraph shall not count toward the limitation specified in section 611(b)(2) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4405): *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management”, to enforce the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and sections 42 and 43 of title 18, United States Code, with respect to goods imported or exported between the United States and Mexico, during fiscal years 2020 through 2023, \$4,000,000, to remain available until September 30, 2023: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for “Environmental Programs and Management” for necessary expenses for carrying out the Environmental Protection Agency’s efforts through the Commission for Environmental Cooperation during fiscal years 2020 through 2023, to reduce pollution, strengthen environmental governance, conserve biological diversity, and sustainably manage natural resources, \$4,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for “State and Tribal Assistance Grants” for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission, \$300,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$210,000,000, for the Bureau of International Labor Affairs to administer or operate international labor activities, bilateral and multilateral technical assistance, and microfinance programs, by or through contracts, grants, subgrants and other arrangements; of which \$180,000,000, to remain available until December 31, 2023, shall be used to support reforms of the labor justice system in Mexico, including grants to support worker-focused capacity building, efforts to reduce workplace discrimination in Mexico, efforts to reduce child labor and forced labor in Mexico, efforts to reduce human trafficking, efforts to reduce child exploitation, and other efforts related to implementation of the USMCA; and of which \$30,000,000, to remain available until September 30, 2027, shall be available to provide for additional capacity of the Bureau of International Labor Affairs during fiscal years 2020 through 2027 to monitor compliance with labor obligations (as such term is defined in section 701 of this Act), including the necessary expenses of additional full-time employees of the Bureau to participate in the Interagency Labor Committee for Monitoring and Enforcement established pursuant to section 711 of this Act: *Provided*, That the Secretary of Labor may detail or assign up to 5 additional full-time employees of the Bureau to the United States Embassy or consulates in Mexico to (1) assist in monitoring and enforcement actions with respect to the labor obligations of Mexico, and (2) prepare a report, to be submitted on a quarterly basis

to the Interagency Labor Committee for Monitoring and Enforcement through September 30, 2027, on the efforts of Mexico to comply with labor obligations (as such term is defined in section 701 of this Act): *Provided further*, That such employees, while detailed or assigned, shall continue to receive compensation, allowances, and benefits from funds made available to the Bureau for purposes related to the activities of the detail or assignment, in accordance with authorities related to their employment status and agency policies: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MULTILATERAL ASSISTANCE

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, \$215,000,000, to remain available until expended: *Provided*, That the authorities and conditions applicable to accounts in title V of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019 (division F of Public Law 116–6) shall apply to the amounts provided under this heading: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—THIS TITLE

SEC. 901. Each amount appropriated or made available by this title is in addition to any amounts otherwise appropriated for any of the fiscal years involved.

SEC. 902. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 903. Unless otherwise provided for by this title, the additional amounts appropriated by this title to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

SEC. 904. Each amount designated in this title by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded or transferred, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress.

BUDGETARY EFFECTS

SEC. 905. (a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this title shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay As-You-Go Act of 2010.

H. R. 5430—92

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of this title shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(7) and (c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this title shall be estimated for purposes of section 251 of such Act.

This title may be cited as the “USMCA Supplemental Appropriations Act, 2019”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*