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BUSINESS MEETING

MEETING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

JANUARY 14, 2020

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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BUSINESS MEETING

TUESDAY, JANUARY 14, 2020

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10:06 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Capito, Cramer, Braun, Rounds, Sullivan, Boozman, Wicker, Shelby, Ernst, Cardin, Whitehouse, Merkley, Gillibrand, and Van Hollen.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. I call this business meeting to order.

Before we begin the markup, I want to take a moment to congratulate and thank Senators on our Committee who worked to pass two important pieces of legislation through the Senate this past week.

On Thursday, the Senate passed the Save Our Seas 2.0 Act, and Senator Sullivan and Senator Whitehouse partnered together to shepherd this bill through the Senate. Both of them were on the floor of the Senate last evening talking about all the benefits of this legislation that has passed our Committee unanimously, as well as the Senate unanimously. The legislation will help reduce the amount of plastic and waste floating in our oceans and will spur innovative solutions to prevent more plastic pollution.

Also on Thursday, the Senate passed America's Conservation Enhancement Act, or the ACE Act. Ranking Member Carper and I introduced the ACE Act; Senators Cramer and Cardin and Capito and Van Hollen and Inhofe and Boozman all joined as cosponsors.

The ACE Act helps conserve wildlife and wildlife habitat. The legislation addresses the threats of emerging wildlife diseases, like chronic wasting disease. It protects livestock from predators, and it combats invasive species.

The ACE Act has received broad support from States, from environmental groups, and from stakeholders. Now, the Senate has passed the legislation unanimously. The House of Representatives should follow our lead and pass this historic bipartisan conservation legislation into law.

In today's markup, we will consider one bill, H.R. 5430, the United States-Mexico-Canada Agreement Implementation Act. Senator Carper and I have agreed that we will begin voting at 10:15.

At that time, I will call up the legislation for a vote. We won't debate the bill while we are voting. Instead, we will debate the legislation before we begin the vote, and I will also be happy to recognize any member who still wishes to speak after the voting concludes.

President Trump promised a strong, fair, and updated trade agreement with our neighbors, Canada and Mexico. President Trump has delivered on his promise. The United States-Mexico-Canada Agreement, also known as USMCA, was signed by the leadership of all three countries more than a year ago. Mexico gave its final approval of the agreement last June. Canada is waiting for us here in Congress to approve the agreement before taking it up. It is critical that Congress approves this trade deal to continue to fuel America's strong, healthy, and growing economy.

H.R. 5430 will implement the United States-Mexico-Canada agreement. At the end of last year, the House of Representatives overwhelmingly voted to approve the legislation. The bipartisan vote tally was 385 to 41.

It has a good reason for broad support. USMCA builds on the certainty and progress achieved through recent trade agreements with Japan and with China. It is going to expand market access for a host of U.S. products, and it will sharpen U.S. exporters' competitive edge.

Trade is certainly very important to my home State of Wyoming. We trade our agriculture and our energy products, including our number one cash crop, which is beef. We do this all around the world.

Above all, USMCA will benefit American workers. The agreement will protect and create millions of jobs here in the United States. American manufacturers overwhelmingly support USMCA. It is imperfect, but it is still a win for American workers and families.

It is also a win for the environment. The United States already has strong environmental protections. The phrase "made in America" is good for the environment. The agreement does not change those protections or give Washington new authorities to regulate. Instead, the agreement recognizes that our partners should have strong environmental records like we do.

Our Committee is one of several Senate committees that have jurisdiction over the legislation. Under the fast track rules, the Committee cannot amend the bill. We will vote today only on whether to favorably report the bill.

I urge my colleagues to support passage of the United States-Mexico-Canada Agreement so we can continue to support our strong, healthy, and growing economy.

I will now turn to our Ranking Member for his opening statement.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thanks, Mr. Chairman.

A lot of people from my State, and probably your States as well, think we don't work together on anything, and I think the Chairman has mentioned two bills that passed literally this week out of

our Committee, bipartisan bills, and a trade agreement before us that has been worked on by Democrats and Republicans of Congress and the Administration.

Thank you, Mr. Chairman, for pulling us together today. Those of us on the Environment and Public Works Committee are considering the new North American Free Trade Agreement Treaty, as we know. If we view the treaty solely as a vehicle to address climate change, then we didn't get nearly enough in the agreement, in fact, far from it.

It is no surprise that I and the Democrats and a growing number of Republicans, too, think that we need to act with a sense of urgency to address climate change. It has just been reported that our planet experienced its second hottest year on record in 2019. Last decade was the hottest decade in the history of our planet. Australia today is literally on fire, the Arctic is melting, and our seas are rising.

If we are only measuring the new NAFTA by what it does to address climate change, well, it doesn't work, plain and simple. The new NAFTA fails to recommit the U.S. to the Paris Accords. It continues to give special treatment to fossil fuel interests. It fails to ratify the Kigali amendment to the Montreal protocol, which could bring the global community together to reduce the use of HFCs and avoid up to a half-degree Celsius in global warming by the end of this century.

Like so many of the Trump administration's proposals, the new NAFTA fails to even mention the words "climate change." With these major deficiencies on the climate front, the new NAFTA Environment Protection chapter cannot be considered a template for future trade negotiations.

Having said all that, though, if we are evaluating the new NAFTA as a trade agreement, which it is, and we consider the new environmental enforcement tools that Democrats fought hard to include, this new NAFTA can work. These new provisions will ensure the rules of this agreement can actually be enforced. That cannot be said of previous trade agreements that the Senate has ratified.

Thanks to Democrats mostly, it is no longer the case that if one NAFTA country fails to ratify the environmental agreement, it can be used to prevent the others from honoring their obligation. Moreover, environmental violations will now be treated as trade violations, so when the United States does bring cases under the new NAFTA's Environmental Obligations, those cases will be easier to win going forward.

The new NAFTA adds stronger language to ensure that the obligations of all three countries under multilateral environment agreements, including the Kigali amendment to the Montreal Protocol, can be fully enforced. This agreement also includes significant new wins for coastal States, including binding provisions around overfishing, around marine debris, and conservation of marine species.

In addition to its $88 million for environmental monitoring cooperation enforcement, the new NAFTA creates an enforcement mechanism that gives environmental stakeholders an expanded role in enforcement matters. This will ensure that environmental

violations can be investigated and remedied in a substantive and timely manner.

Again, the new NAFTA will not solve the climate crisis or remedy this Administration's most egregious environmental rollbacks. If it was solely an environmental agreement, I could not vote for it, but the new NAFTA does make significant improvements on past trade agreements, including the original NAFTA.

The new NAFTA adds important tools and resources that were negotiated mostly by Democrats to strengthen the agreement, hold the Administration accountable to enforce NAFTA countries' environmental obligations, and help ensure that those who break the rules are actually held accountable.

And with that, Mr. Chairman, I am going to be voting yes on new NAFTA today, and I want to urge my colleagues to join me in doing so.

If I could just take another 60 seconds. I think it was 1999, I was chairman of the National Governors Association. We were all gathered in Washington, DC. We spent a big part of the morning with Bill Clinton, Al Gore, and their Cabinet.

One of the issues that came up during our discussion with Bill Clinton, President Bill Clinton, was NAFTA, which was just being negotiated at that time. I asked him to explain why he thought that a couple of us—Mel Carnahan and I were about to run for the Senate—why we should support his efforts.

What he did is he said you know, at the end of World War II, the U.S. was the 800 pound gorilla in the room; we were on top of the world. The rest of the world, their industrial base was mostly in ruins. We gave them the ability to sell their stuff to us without much impediment, and they put up barriers to keep our stuff out.

And he said, that was fine, that was right, that was appropriate. Communism was sweeping through Europe, and we wanted to stop it in its tracks. He said, a lot has changed since then, and he said the reason why we do free trade agreements is because we want not to allow others to sell their stuff to us; they already do that. We want to make sure that we can sell in their markets, and so that is what this is all about.

He never mentioned the environment. Never talked about anything to do with the environment, and from that day until this, we have heard people complain, justifiably so, about the lack of, one, tough environmental provisions that we and Mexico and Canada need to abide by, the ability to enforce those environmental protections, and the money to pay for those enforcements.

Is this perfect in terms of its environmental standards and all? No, it is not perfect, but it is a whole lot better than what we talked about all those years ago with Bill Clinton, and we can do better from this going forward. I would urge a yes vote on this. Thank you.

Senator CARDIN. Mr. Chairman.

Senator BARRASSO. Senator Cardin.

Senator CARDIN. I support the agreement. I will speak after the vote.

But I ask consent that Senator Whitehouse be able to speak now. He is opposed to the agreement. I think we should at least hear one person who is opposed to the agreement before the vote.

Senator BARRASSO. Senator Whitehouse, then you can expand on it afterwards as well.

Senator WHITEHOUSE. I have to go rank up in budget, so I appreciate everybody's courtesy. Thank you.

I think I was the lone Democratic no vote in the Finance Committee on this bill. There is no doubt in my mind that this bill easily wins the record as most improved on environmental matters. But it wins the most improved award off a baseline of terrible, horrible, and no good, which has been the history of these trade agreements under Democratic and Republican Administrations alike.

We are now at a point where I don't believe improvement is the measure. You are either reaching a measure that will protect us, or you are not, and if you are not, then I can't vote for it, and I view this as one that very clearly does not.

As we look at getting through 410 parts per million of carbon dioxide in the atmosphere, as we look at the appalling warming of our oceans and the acidification of our seas, I am reminded of times I spent running rivers. If you are running rivers, and they are dangerous rivers, and they have got serious rapids on them, the first thing you do is you check the map to see where the rapids are, so that you know that they are up ahead.

Well, we got warned about this. The scientists told us, here is what is going to happen. This is on the map. We paid no attention.

Then if you go down the river, you get to the point where you can hear the rapids downriver. They are roaring; the falls are roaring ahead of you. That is a really good signal to paddle to shore until you know what the hell you are getting into.

We can hear the roaring right now. We hear it in the flames of Australia, we hear it in the gushing of Greenland's glaciers into the sea, we see it in all of our home States, every single one of us has a home State university that teaches this stuff, every single one of us.

But then there comes a point on the river where there is a point of no return. If you don't get off the river, you are going down the falls. At that moment, if you want to get safely to shore, you have got to paddle for your lives.

That is where I think we are in climate right now. Colleagues can disagree with me. That is where I think we are on climate right now. If we don't take action soon, we are doomed to go down these cataracts.

I think it is really vitally important that we take stronger action, and this is a big missed opportunity, notwithstanding it easily winning the most improved award for a trade negotiation.

On that front, I do really want to trust my appreciation to Senator Cardin and Senator Carper for having leaned in to try to make so many of those improvements.

So thank you very much for everybody's courtesy.

Senator BARRASSO. Thank you, Senator Whitehouse.

Now that enough members have arrived, I would like to move to vote on the item on today's agenda, H.R. 5430, United States-Mexico-Canada Agreement Implementation Act. I would like to call up H.R. 5430 and move to approve and report H.R. 5430 favorable to the Senate.

Is there a second?

Senator CARDIN. Second.
Senator BARRASSO. The Clerk will call the roll.
The CLERK. Mr. Booker.
Mr. Boozman.
Senator BOOZMAN. Yes.
The CLERK. Mr. Braun.
Senator BRAUN. Yes.
The CLERK. Ms. Capito.
Senator CAPITO. Aye.
The CLERK. Mr. Cardin.
Senator CARDIN. Aye.
The CLERK. Mr. Carper.
Senator CARPER. Aye.
The CLERK. Mr. Cramer.
Senator CRAMER. Aye.
The CLERK. Ms. Duckworth.
Senator CARPER. Aye by proxy.
The CLERK. Ms. Ernst.
Senator ERNST. Yes.
The CLERK. Mrs. Gillibrand.
Senator GILLIBRAND. No.
The CLERK. Mr. Inhofe.
Senator BARRASSO. Aye by proxy.
The CLERK. Mr. Markey.
Senator CARPER. No by proxy.
The CLERK. Mr. Merkley.
Senator MERKLEY. Aye.
The CLERK. Mr. Rounds.
Senator ROUNDS. Aye.
The CLERK. Mr. Sanders.
Senator CARPER. No by proxy.
The CLERK. Mr. Shelby.
Senator SHELBY. Aye.
The CLERK. Mr. Sullivan.
Senator SULLIVAN. Aye.
The CLERK. Mr. Van Hollen.
Senator VAN HOLLEN. Aye.
The CLERK. Mr. Whitehouse.
Senator WHITEHOUSE. No.
The CLERK. Mr. Wicker.
Senator WICKER. Aye.
The CLERK. Mr. Chairman.
Senator BARRASSO. Aye.
Clerk will report.
The CLERK. Mr. Chairman, the yeas are 16, the nays are 4.
Senator BARRASSO. The yeas are 16, the nays are 4. We have approved H.R. 5430, which will be reported favorably to the Senate.
The voting part of the business is finished. I am going to be happy to recognize any other members who wish to make a statement on the legislation we just approved.
I think Senator Ernst has the first right of refusal.
Senator ERNST. Thank you, Mr. Chairman.
The United States-Mexico-Canada Agreement, or as we call it, the USMCA, is a huge deal for my constituents back home in Iowa.

Just this last weekend, I was in my hometown of Red Oak in Montgomery County, and I hosted a roundtable discussion with some of our farmers. Of course, the No. 1 topic was USMCA.

That was the case last year on my 99 county tour. Iowans have been waiting a long time on this trade deal to be ratified. Our farmers, manufacturers, and small business owners need certainty and predictability, and getting this deal done with our top two trading partners gives them exactly that.

We waited for over a year for the House Democrats to move on the USMCA, and I am happy to be a part of this process today in getting this bill to the Senate floor as quickly as possible.

My home State of Iowa exports more to Canada and Mexico than we do to our next 27 trade partners combined. The USMCA will allow those numbers to grow exponentially by creating new export opportunities and over 175,000 jobs across the country. I believe that having the USMCA will not only be a win for my State, but also for the hard working Americans from all over the United States.

Ratifying this agreement will be a shot of positive energy into businesses, homes, and lives across rural America.

Mr. Chairman, as the daughter of a farmer, and as a proud Iowan, it is a privilege to vote in support of passing USMCA out of committee today, and I would be happy to support passage of the USMCA on the Senate floor.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator.

Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman. I appreciate the opportunity to move this along.

Trade is critically important to our economy. I think we all understand that trade done in the right way will improve the living standards for Americans and create jobs, as it has.

As a Senator from Maryland, along with Senator Van Hollen, we are very much aware of the importance of the Port of Baltimore to our local economy. It depends upon open trade, and this trade agreement will help the Port of Baltimore, will help people in Maryland, and people around our Nation.

There are many reasons that we should be supportive of this agreement, as it was originally presented from the point of view of the provisions that were included in it. There were some really good provisions.

From my State of Maryland, the poultry industry will get a major plus as a result of this agreement. I want to thank Senator Carper, as part of the Delmarva team on poultry, for opening up markets, particularly in Mexico and Canada, that will be important for the poultry industry in our region.

As the Ranking Democrat on the Small Business and Entrepreneurship Committee, there are many provisions here that are going to help small businesses. One, the *de minimis* rule, helps deal with expediting process at our borders for small companies. That is good for business and for small business; it is good for our economy.

I particularly want to thank the USTR, Bob Lighthizer, for what he was able to get done in regard to good governance. During the

debate on the trade promotional authority, I fought very hard as a principal negotiating objective to include good governance.

For the first time, for the very first time in a trade agreement, we have strong provisions in regard to good governance in the core provisions of the USMCA. That includes anti-corruption provisions; it includes regulatory reform so that we can actually have input into the regulatory process in Mexico and Canada. It includes transparency; it represents U.S. values that are now embedded in our agreement with Mexico and Canada, and it is a template for future agreements with any trading partners.

That is where we were when we started the process, but it was not good enough. I want to really thank Senator Carper for his extraordinary leadership on the environmental section.

I want to thank my Democratic colleagues for what they were able to get done in the labor sections; I think that is all critically important.

For the first time, we have enforcement of labor standards in this agreement that are effective. We can challenge the labor actions in Mexico or Canada, and there is enforcement. That is why it earned the support of the AFL-CIO.

On the environmental provisions, which are particularly important to this Committee that has primary jurisdiction over the environmental provisions, again, I want to congratulate Senator Carper for insisting that we include a strong environmental section in the core agreement.

NAFTA had environment. The problem was, it was a sidebar agreement and didn't have enforcement. You had a way of raising it, but once you raised it, you couldn't take it any further.

Well, that is corrected in the USMCA. We now have a provision whereby the USTR can bring enforcement actions against Mexico or Canada in regard to failure to live up to the enforcement agreements, environmental agreements. We have upgraded the commitments in the environment, including fishery subsidies, marine litter, and conservation of marine species.

And if the USTR decides not to bring action, they must notify Congress within 30 days, so we have transparency in regard to enforcement. There are funds that are made available, $88 million during the next 4 years for environmental monitoring enforcement, and there are three new environmental attachés in our embassies in Mexico City.

I think this agreement really does provide a major template for including environment in trade agreements. If you go back just a few years, just a few years ago, it would have been revolutionary to include environment provisions in a trade agreement. We now are not only including it; we are providing for enforcement.

So I think this agreement is good for many reasons, but I also think it is a major step forward in using trade to help provide a level playing field for environmental rules, and I strongly support the agreement.

Senator BARRASSO. Thank you, Senator Cardin.

Senator Sullivan, congratulations again on the Save Our Seas Act 2.0.

Senator SULLIVAN. Thank you, Mr. Chairman.

I want to express my strong support for this agreement. It is good to see so many of my colleagues on both sides of the aisle who are supportive.

There is certainly a strategic aspect to this, which is something I have been encouraging this Administration from the President on down to his team in terms of trade, where we need to work more closely with our allies, so we address some of the really big challenges we have with China. I think bringing our North American trading partners together with this agreement is going to help that broader strategic aspects.

I want to echo some of what Senator Cardin just mentioned, and I appreciate your comments, Mr. Chairman, and the help you provided me and Senator Whitehouse on passing the Save Our Seas 2.0 Act. That is the bill that passed last week in the Senate. That is the most comprehensive ocean debris, ocean pollution legislation ever to pass the Congress.

Didn't get a lot of stories on it, but that is true, we checked with CRS last week, and they said, absolutely, you can say that. So we are doing a lot in a bipartisan way on cleaning up our oceans.

And importantly, as Senator Cardin just mentioned, there is a whole article on marine debris in this trade agreement. First time ever that any trade agreement that we have ever done. I think, that is important for the environment, for the oceans, and importantly, as he indicated, fisheries.

I want to talk just briefly, Mr. Chairman, on the fisheries chapter. You know I like to talk, and I know my colleagues hear from me a lot, but my State, the great State of Alaska, is the superpower of seafood. Almost 60 percent, actually over 60 percent of all the seafood harvested in America commercially, sport fishing, subsistence, over 60 percent, six-zero, comes from the shores of Alaska, and we export billions, billions of dollars in seafood around the world to markets all over.

But here is the thing: prior to this agreement, there had never been a chapter on opening markets overseas to seafood exports from America. So in 2016, as we were debating the trade promotion authority, I recognized that we looked like we were going to have 60 votes in the Senate, so I withheld my vote until I got a commitment from the then-Obama administration and some other members, Democrats and Republicans, that TPA, Trade Promotion Authority, that we passed in 2016, would have as a principal negotiating objective for the USTR, fisheries. That was agreed to by everybody. It was in TPA.

If you look at this agreement, Mr. Chairman, you have Article 24.17, Marine Wild Capture Fisheries; Article 24.18, Sustainable Fisheries Management; Article 24.19, Conservation of Marine Species; Article 24.20, Fisheries Subsidies. Countries all around the world over-subsidize their fleets; government subsidies, the Koreans, other Asian countries do this all the time to the disadvantage of my fishermen, so now we are going to be able to go after illegal subsidies for foreign fleets that are unfairly trading.

Article 24.21, Illegal, Unreported, and Unregulated Fishing, IUU Fishing, is now going to be illegal. Article 24.22, Conservation and Trade with Regard to Fisheries. There is a lot in this agreement

on an industry that supports tens of thousands of Alaskans and coastal communities.

This is historic. I am proud to say the TPA Bill in 2016 is what made it happen, and my team and I wrote that provision, a bipartisan provision. For a lot of the reasons Senator Cardin just mentioned, environment, cleaning up the oceans, fisheries for the first time, I think this is a very important agreement, and I am going to strongly support it. It is good to see so many of my colleagues, Democrats and Republicans, supporting it as well.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Sullivan.

Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chairman.

Mr. Chairman, for me, this was a very difficult call. I think the USMCA improves the labor standards and labor enforcement, but I am disturbed both about the process and the substance on the environment. There are a lot of environmental elements to consider in this, and yet we didn't hold a hearing on it. We didn't even hold a conversation among ourselves before taking this vote.

I think it really violates the responsibility of you, Mr. Chairman, to make sure this Committee has a chance to consider important environmental issues before voting on an environmental piece of legislation that has implications, perhaps for a generation, perhaps for other trade treaties that are pursued.

On the environmental side, every major environmental organization is in opposition to this treaty, and they have a list of reasons why. We should have heard from them and duly considered their points of view.

I did look at the fact that we now have seven multilateral environmental agreements that are enforceable under this treaty: wildlife trafficking, ozone depletion, ship bilge water, waterfowl wetlands, Antarctic whaling, tuna, OK. All well and good.

But where is the enforceability on air and water pollution that drives manufacturing to Mexico, so they can pollute, produce items at low cost, and undermine manufacturing in the United States of America?

There is a piece of a process embodied in here that was not in former agreements. It is untested and unclear if it will be able to have any impact. I think we should have heard experts weigh in on both the strengths and weaknesses of that process as we consider that.

Embodied in this particular agreement is special treatment for fossil fuel companies. I completely applaud and agree with my colleague, Senator Whitehouse, who says we are in big trouble on carbon pollution, and we should have weighed and considered why we are giving special treatment to fossil fuel companies in this agreement.

In fact, we are eliminating a tax that is in place now on tar sand oil, some of the dirtiest oil to be found anywhere on the planet. We maintain the villainous ISDS system, specifically for the oil and gas companies only. If it is such a terrible system, and a corrupt system in which those who are plaintiffs one day or defense lawyers or advocates one day, can be judges the next, why is it a good system to maintain for the fossil fuel companies?

And while some have applauded the regulatory provisions in here, those regulatory systems may also provide many opportunities for corporations to obstruct new regulations that protect our environment. We should have heard about that issue, well debated before this Committee.

So I am very disappointed in the conduct of this Committee and the responsibilities we have to do due deliberation as a Committee on environmental issues on a major piece of environmental legislation. I did support moving this to the floor. I think my vote is primarily one on the basis of the labor provisions.

But I am also aware that no one thinks this agreement will return a single manufacturing job to my home State of Oregon that has moved to Mexico because of the low labor standards, and the particularly low environmental standards. So the process of exporting pollution is one that we may well see continue, and that process, again, is one that should have been duly debated in this Committee.

As I said, it was a difficult vote for me. I think we have to do far better in our international agreements, and bring in the biggest crisis facing humankind.

We have the impact of carbon pollution affecting everything in my home State. The duration of the snowpack that provides irrigation water to my farmers and ranchers; my farmers and ranchers care a lot about water as all farmers and ranchers do across this country, and it is being profoundly impacted by this pollution.

Why are we giving special treatment to fossil fuel companies in this agreement? In my home State, the forest fires are much worse because of those changes. Our off-sea ecosystem for our ocean and our fisheries are being very much affected by the heat and the acidity in the ocean waters off my coast.

These are big factors. Let us not repeat this mistake of having major environmental legislation go through here with no hearings, no consideration of experts being brought to bear.

Thank you.

Senator BARRASSO. Thank you very much, Senator Merkley.

I point out that the U.S.-Mexico-Canada Agreement was referred to multiple committees in the Senate, the Finance Committee; the Health, Education, Labor, and Pensions Committee; the Environment and Public Works Committee; the Appropriations Committee; the Foreign Relations Committee; the Commerce Committee; as well as the Budget Committee.

The agreement as passed by the Senate by the House is not amendable. The agreement as referred to this Committee for approval related to Section 815 and 821 is not amendable, and it is the opinion of the Chair that any additional hearings or debate would be completely dilatory and unnecessary.

With that, I ask unanimous consent that the staff have authority to make technical and conforming changes to the matter approved today.

Senator Carper.

Senator CARPER. Before we close, I just want to say to our colleague Jeff Merkley, thank you, I know this was not an easy vote for you. Frankly, it was not an easy vote for some of our colleagues. Thank you for what you just said.

I think, Mr. Chairman, his point about on some of the other committees I serve, we actually did have a hearing to consider the impact of this treaty on—for example, in the Finance Committee, our jurisdiction. I think that would have been a good idea, and one that, I think, let's just keep that in mind as we go forward.

Senator BARRASSO. I would point out that the Finance Committee, was, in my understanding, was the committee that was supposed to have the entire agreement referred to them, so there would have been time and appropriate nature to have that hearing. But the Finance Committee voted on this last week, within a day or so of it arriving from the House.

This Committee was informed kind of at the last moment that we would be asked to review certain parts. I think many members of the Senate on both sides of the aisle were surprised at the number of referrals made by the Parliamentarian.

So in terms of moving this ahead, realizing that amendments are not in order, and it is an up or down vote, it was the opinion of the Chair that there was no reason at this point to hold a hearing.

And with that, our business meeting is concluded.

[Whereupon, at 10:39 a.m., the business meeting was concluded.]

An additional statement submitted for the record follows:]

STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman, thank you for scheduling this consideration of USMCA so quickly. Oklahoma truckers, manufacturers and farmers have been waiting a long time for us to fix the outdated NAFTA agreement, but help is now on the way.

Back in 1994, I opposed NAFTA because it put American truckers at a disadvantage by allowing Mexican trucking companies to skirt domestic hours of service laws. Thankfully, President Trump recognized these concerns, and successfully negotiated a new, fair agreement: the USMCA.

USMCA will now allow for a much more level playing field for American companies. For example, by preserving and enhancing U.S. duty free access to Mexican and Canadian markets.

It's also good for Oklahoma. A total of $2 billion in economic revenue and 15,000 jobs are supported by agricultural exports to Canada and Mexico—USMCA will ensure this continues to grow.

Nationally, USMCA is expected to add $68 billion to our economy and more than 175,000 jobs.

Most importantly to this Committee, I am very pleased that there are no radical, job killing climate mandates within the agreement that would keep American businesses from competing with other countries, or liberal policy riders that would force us to adhere to globalist climate agreements, like the Paris Climate Agreement.

The USMCA—both what is in it and what isn't in it—is another massive accomplishment for President Trump and the Nation. I am proud to support USMCA—there is no question it will provide certainty for the future and increase economic growth for American businesses across every sector.

[The text of H.R. 5430, the United States-Mexico-Canada Agreement Implementation Act, follows:]

IIB

116TH CONGRESS
2D SESSION

H. R. 5430

IN THE SENATE OF THE UNITED STATES

JANUARY 3, 2020

Received; read twice and referred jointly to the Committees on Finance, Health, Education, Labor, and Pensions, Environment and Public Works, Appropriations, Foreign Relations, Commerce, Science, and Transportation, and the Budget pursuant to section 151(e)(2) of the Trade Act of 1974

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 "United States-Mexico-Canada Agreement Implementa-
4 tion Act".

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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.
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.
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

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to approve and implement
3 the Agreement between the United States of America, the
4 United Mexican States, and Canada entered into under
5 the authority of section 103(b) of the Bipartisan Congres-
6 sional Trade Priorities and Accountability Act of 2015 (19
7 U.S.C. 4202(b)).

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term "appropriate congressional com-
12 mittees" means the Committee on Finance of the
13 Senate and the Committee on Ways and Means of
14 the House of Representatives.

15 (2) HTS.—The term "HTS" means the Har-
16 monized Tariff Schedule of the United States.

17 (3) IDENTICAL GOODS.—The term "identical
18 goods" means goods that are the same in all re-
19 spects relevant to the rule of origin that qualifies the
20 goods as originating goods.

1 (4) INTERNATIONAL TRADE COMMISSION.—The
2 term "International Trade Commission" means the
3 United States International Trade Commission.
4 (5) MEXICO.—The term "Mexico" means the
5 United Mexican States.
6 (6) NAFTA.—The term "NAFTA" means the
7 North American Free Trade Agreement approved by
8 Congress under section 101(a)(1) of the North
9 American Free Trade Agreement Implementation
10 Act (19 U.S.C. 3311(a)(1)).
11 (7) PREFERENTIAL TARIFF TREATMENT.—The
12 term "preferential tariff treatment" means the cus-
13 toms duty rate that is applicable to an originating
14 good (as defined in section 202(a)) under the
15 USMCA.
16 (8) TRADE REPRESENTATIVE.—The term
17 "Trade Representative" means the United States
18 Trade Representative.
19 (9) USMCA.—The term "USMCA" means the
20 Agreement between the United States of America,
21 the United Mexican States, and Canada, which is—
22 (A) attached as an Annex to the Protocol
23 Replacing the North American Free Trade
24 Agreement with the Agreement between the
25 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

1 the Trade Act of 1974 (19 U.S.C. 2191), Congress ap-
2 proves—
3 (1) the Protocol Replacing the North American
4 Free Trade Agreement with the Agreement between
5 the United States of America, the United Mexican
6 States, and Canada, done at Buenos Aires on No-
7 vember 30, 2018, as submitted to Congress on De-
8 cember 13, 2019;
9 (2) the Agreement between the United States of
10 America, the United Mexican States, and Canada,
11 attached as an Annex to the Protocol, as amended
12 by the Protocol of Amendment to the Agreement be-
13 tween the United States of America, the United
14 Mexican States, and Canada, done at Mexico City on
15 December 10, 2019, as submitted to Congress on
16 December 13, 2019; and
17 (3) the statement of administrative action pro-
18 posed to implement that Agreement, as submitted to
19 Congress on December 13, 2019.
20 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE
21 AGREEMENT.—The President is authorized to provide for
22 the USMCA to enter into force with respect to Canada
23 and Mexico not earlier than 30 days after the date on
24 which the President submits to Congress the written no-
25 tice required by section 106(a)(1)(G) of the Bipartisan

1 Congressional Trade Priorities and Accountability Act of
2 2015 (19 U.S.C. 4205(a)(1)(G)), which shall include the
3 date on which the USMCA will enter into force.

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

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

8 (1) UNITED STATES LAW TO PREVAIL IN CON-
9 FLICT.—No provision of the USMCA, nor the appli-
10 cation of any such provision to any person or cir-
11 cumstance, which is inconsistent with any law of the
12 United States, shall have effect.

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

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

17 (B) to limit any authority conferred under
18 any law of the United States,

19 unless specifically provided for in this Act.

20 (b) RELATIONSHIP OF USMCA TO STATE LAW.—

21 (1) LEGAL CHALLENGE.—No State law, or the
22 application thereof, may be declared invalid as to
23 any person or circumstance on the ground that the
24 provision or application is inconsistent with the
25 USMCA, except in an action brought by the United

1 States for the purpose of declaring such law or ap-
2 plication invalid.
3 (2) DEFINITION OF STATE LAW.—For purposes
4 of this subsection, the term "State law" includes—
5 (A) any law of a political subdivision of a
6 State; and
7 (B) any State law regulating or taxing the
8 business of insurance.
9 (c) EFFECT OF USMCA WITH RESPECT TO PRIVATE
10 REMEDIES.—No person other than the United States—
11 (1) shall have any cause of action or defense
12 under the USMCA or by virtue of congressional ap-
13 proval thereof; or
14 (2) may challenge, in any action brought under
15 any provision of law, any action or inaction by any
16 department, agency, or other instrumentality of the
17 United States, any State, or any political subdivision
18 of a State, on the ground that such action or inac-
19 tion is inconsistent with the USMCA.
20 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**
21 **ENTRY INTO FORCE; INITIAL REGULATIONS;**
22 **TARIFF PROCLAMATION AUTHORITY.**
23 (a) IMPLEMENTING ACTIONS.—
24 (1) PROCLAMATION AUTHORITY.—After the
25 date of the enactment of this Act—

1 (A) the President may proclaim such ac-
2 tions, and
3 (B) other appropriate officers of the
4 United States Government may prescribe such
5 regulations,
6 as may be necessary to ensure that any provision of
7 this Act, or amendment made by this Act, that takes
8 effect on the date on which the USMCA enters into
9 force is appropriately implemented on such date, but
10 no such proclamation or regulation may have an ef-
11 fective date earlier than the date on which the
12 USMCA enters into force.
13 (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED
14 ACTIONS.—Any action proclaimed by the President
15 under the authority of this Act that is not subject
16 to the consultation and layover provisions under sec-
17 tion 104 may not take effect before the 15th day
18 after the date on which the text of the proclamation
19 is published in the Federal Register.
20 (3) WAIVER OF 15-DAY RESTRICTION.—The 15-
21 day restriction contained in paragraph (2) on the
22 taking effect of proclaimed actions is waived to the
23 extent that the application of such restriction would
24 prevent the taking effect on the date on which the

1 USMCA enters into force of any action proclaimed
2 under this section.
3 (b) INITIAL REGULATIONS.—
4 (1) IN GENERAL.—Except as provided by para-
5 graph (2) or (3), initial regulations necessary or ap-
6 propriate to carry out the actions required by or au-
7 thorized under this Act or proposed in the statement
8 of administrative action approved under section
9 101(a)(2) to implement the USMCA shall, to the
10 maximum extent feasible, be prescribed within 1
11 year after the date on which the USMCA enters into
12 force.
13 (2) UNIFORM REGULATIONS.—Interim or initial
14 regulations to implement the Uniform Regulations
15 regarding rules of origin provided for under article
16 5.16 of the USMCA shall be prescribed not later
17 than the date on which the USMCA enters into
18 force.
19 (3) IMPLEMENTING ACTIONS WITH EFFECTIVE
20 DATES AFTER ENTRY INTO FORCE.—In the case of
21 any implementing action that takes effect on a date
22 after the date on which the USMCA enters into
23 force, initial regulations to carry out that action
24 shall, to the maximum extent feasible, be prescribed
25 within 1 year after such effective date.

1 (c) TARIFF MODIFICATIONS.—

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

4 (A) such modifications or continuation of
5 any duty,

6 (B) such continuation of duty-free or ex-
7 cise treatment, or

8 (C) such additional duties,

9 as the President determines to be necessary or ap-
10 propriate to carry out or apply articles 2.4, 2.5, 2.7,
11 2.8, 2.9, 2.10, 6.2, and 6.3, the Schedule of the
12 United States to Annex 2–B, including the appen-
13 dices to that Annex, Annex 2–C, and Annex 6–A, of
14 the USMCA.

15 (2) OTHER TARIFF MODIFICATIONS.—Subject
16 to the consultation and layover provisions of section
17 104, the President may proclaim—

18 (A) such modifications or continuation of
19 any duty,

20 (B) such modifications as the United
21 States may agree to with a USMCA country re-
22 garding the staging of any duty treatment set
23 forth in the Schedule of the United States to
24 Annex 2–B of the USMCA, including the ap-
25 pendices to that Annex,

1 (C) such continuation of duty-free or excise
2 treatment, or
3 (D) such additional duties,
4 as the President determines to be necessary or ap-
5 propriate to maintain the general level of reciprocal
6 and mutually advantageous concessions with respect
7 to a USMCA country provided for by the USMCA.
8 (3) CONVERSION TO AD VALOREM RATES.—For
9 purposes of paragraphs (1) and (2), with respect to
10 any good for which the base rate in the Schedule of
11 the United States to Annex 2–B of the USMCA is
12 a specific or compound rate of duty, the President
13 shall substitute for the base rate an ad valorem rate
14 that the President determines to be equivalent to the
15 base rate.
16 (4) TARIFF-RATE QUOTAS.—In implementing
17 the tariff-rate quotas set forth in the Schedule of the
18 United States to Annex 2–B of the USMCA, the
19 President shall take such actions as may be nec-
20 essary to ensure that imports of agricultural goods
21 do not disrupt the orderly marketing of agricultural
22 goods in the United States.
23 (5) PRESIDENTIAL PROCLAMATION AUTHORITY
24 RELATING TO RULES OF ORIGIN.—

1 (A) IN GENERAL.—The President may
2 proclaim, as part of the HTS—
3 (i) the provisions set forth in Annex
4 4–B of the USMCA;
5 (ii) the provisions set forth in para-
6 graph 2 of article 3.A.6 of Annex 3–A of
7 the USMCA;
8 (iii) the provisions set forth in para-
9 graph 5 of Annex 3–B of the USMCA;
10 (iv) the provisions set forth in para-
11 graphs 14(b), 14(c), and 15(e) of Section
12 B of Appendix 2 to Annex 2–B of the
13 USMCA; and
14 (v) any additional subordinate cat-
15 egory that is necessary to carry out section
16 202 and section 202A consistent with the
17 USMCA.
18 (B) MODIFICATIONS.—
19 (i) IN GENERAL.—Subject to the con-
20 sultation and layover provisions of section
21 104, the President may proclaim modifica-
22 tions to the provisions proclaimed under
23 the authority of subparagraph (A), other
24 than the provisions of chapters 50 through
25 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 (1) the President has obtained advice regarding
2 the proposed action from—
3 (A) the appropriate advisory committees
4 established under section 135 of the Trade Act
5 of 1974 (19 U.S.C. 2155); and
6 (B) the International Trade Commission,
7 which shall hold a public hearing on the pro-
8 posed action before providing advice regarding
9 the proposed action;
10 (2) the President has submitted to the Com-
11 mittee on Finance of the Senate and the Committee
12 on Ways and Means of the House of Representatives
13 a report that sets forth—
14 (A) the proposed action and the reasons
15 therefor; and
16 (B) the advice obtained under paragraph
17 (1);
18 (3) a period of 60 calendar days, beginning on
19 the first day on which the requirements set forth in
20 paragraphs (1) and (2) have been met, has expired;
21 and
22 (4) the President has consulted with the com-
23 mittees referred to in paragraph (2) regarding the
24 proposed action during the period referred to in
25 paragraph (3).

1 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**
2 **CEEDINGS.**

3 (a) UNITED STATES SECTION OF SECRETARIAT.—

4 (1) ESTABLISHMENT OR DESIGNATION OF OF-
5 FICE.—The President is authorized to establish or
6 designate within the Department of Commerce an
7 office to serve as the United States Section of the
8 Secretariat established under article 30.6 of the
9 USMCA.

10 (2) FUNCTIONS AND ADMINISTRATIVE ASSIST-
11 ANCE.—The office established or designated under
12 paragraph (1), subject to the oversight of the inter-
13 agency group established under section 411(c)(2),
14 shall—

15 (A) carry out its functions within the Sec-
16 retariat to facilitate the operation of the
17 USMCA, including the operation of section D
18 of chapter 10 and chapter 31 of the USMCA;
19 and

20 (B) provide administrative assistance to—

21 (i) panels established under chapter
22 31 of the USMCA, including under Annex
23 31–A (relating to the Facility-Specific
24 Rapid Response Labor Mechanism);

25 (ii) technical advisers and experts pro-
26 vided for under chapter 31 of the USMCA;

1 (iii) binational panels and extraor-
2 dinary challenge committees established
3 under section D of chapter 10 of the
4 USMCA; and
5 (iv) binational panels and extraor-
6 dinary challenge committees established
7 under NAFTA for matters covered by arti-
8 cle 34.1 of the USMCA (relating to transi-
9 tion from NAFTA).
10 (3) TREATMENT OF OFFICE UNDER FREEDOM
11 OF INFORMATION ACT.—The office established or
12 designated under paragraph (1) shall not be consid-
13 ered an agency for purposes of section 552 of title
14 5, United States Code.
15 (b) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated for each fiscal year after
17 fiscal year 2020 to the Department of Commerce
18 $2,000,000 for—
19 (1) the operations of the office established or
20 designated under subsection (a)(1); and
21 (2) the payment of the United States share of
22 the expenses of—
23 (A) panels established under chapter 31 of
24 the USMCA, including under Annex 31–A (re-

1 lating to the Facility-Specific Rapid Response
2 Labor Mechanism);
3 (B) binational panels and extraordinary
4 challenge committees established under section
5 D of chapter 10 of the USMCA; and
6 (C) binational panels and extraordinary
7 challenge committees established under NAFTA
8 for matters covered by article 34.1 of the
9 USMCA (relating to transition from NAFTA).
10 (c) REIMBURSEMENT OF CERTAIN EXPENSES.—If
11 the Canadian Section or the Mexican Section of the Secre-
12 tariat provides funds to the United States Section during
13 any fiscal year as reimbursement for expenses in connec-
14 tion with dispute settlement proceedings under section D
15 of chapter 10 or chapter 31 of the USMCA, or under
16 chapter 19 of NAFTA, the United States Section may,
17 notwithstanding section 3302 of title 31, United States
18 Code, retain and use such funds to carry out the functions
19 described in subsection (a)(2).

20 **SEC. 106. TRADE REPRESENTATIVE AUTHORITY.**

21 If a country (other than the United States) that has
22 signed the USMCA does not enact implementing legisla-
23 tion, the Trade Representative is authorized to enter into
24 negotiations with the other country that has signed the
25 USMCA to consider how the applicable provisions of the

1 USMCA can come into force with respect to the United
2 States and that other country as promptly as possible.

3 **SEC. 107. EFFECTIVE DATE.**

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

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

10 TITLE II—CUSTOMS PROVISIONS

11 **SEC. 201. EXCLUSION OF ORIGINATING GOODS OF USMCA**
12 **COUNTRIES FROM SPECIAL AGRICULTURE**
13 **SAFEGUARD AUTHORITY.**

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

17 "(e) EXCLUSION OF ORIGINATING GOODS OF
18 USMCA COUNTRIES.—

19 "(1) IN GENERAL.—The President shall exempt
20 from any duty imposed under this section any good
21 that qualifies as an originating good under section
22 202 of the United States-Mexico-Canada Agreement
23 Implementation Act of a USMCA country with re-
24 spect to which preferential tariff treatment is pro-
25 vided under the USMCA.

1 "(2) DEFINITIONS.—In this subsection, the
2 terms 'preferential tariff treatment', 'USMCA', and
3 'USMCA country' have the meanings given those
4 terms in section 3 of the United States-Mexico-Can-
5 ada Agreement Implementation Act.".
6 (b) EFFECTIVE DATE.—
7 (1) IN GENERAL.—The amendment made by
8 subsection (a) shall—
9 (A) take effect on the date on which the
10 USMCA enters into force; and
11 (B) apply with respect to a good entered
12 for consumption, or withdrawn from warehouse
13 for consumption, on or after that date.
14 (2) TRANSITION FROM NAFTA TREATMENT.—In
15 the case of a good entered for consumption, or with-
16 drawn from warehouse for consumption, before the
17 date on which the USMCA enters into force—
18 (A) the amendment made by subsection (a)
19 to section 405(e) of the Uruguay Round Agree-
20 ments Act (19 U.S.C. 3602(e)) shall not apply
21 with respect to the good; and
22 (B) section 405(e) of such Act, as in effect
23 on the day before that date, shall continue to
24 apply on and after that date with respect to the
25 good.

1 **SEC. 202. RULES OF ORIGIN.**

2 (a) DEFINITIONS.—In this section:

3 (1) AQUACULTURE.—The term "aquaculture"
4 means the farming of aquatic organisms, including
5 fish, molluscs, crustaceans, other aquatic inverte-
6 brates, and aquatic plants from seed stock such as
7 eggs, fry, fingerlings, or larvae, by intervention in
8 the rearing or growth processes to enhance produc-
9 tion such as regular stocking, feeding, or protection
10 from predators.

11 (2) CUSTOMS VALUATION AGREEMENT.—The
12 term "Customs Valuation Agreement" means the
13 Agreement on Implementation of Article VII of the
14 General Agreement on Tariffs and Trade 1994 re-
15 ferred to in section 101(d)(8) of the Uruguay Round
16 Agreements Act (19 U.S.C. 3511(d)(8)).

17 (3) FUNGIBLE GOOD OR FUNGIBLE MATE-
18 RIAL.—The term "fungible good" or "fungible mate-
19 rial" means a good or material, as the case may be,
20 that is interchangeable with another good or mate-
21 rial for commercial purposes and the properties of
22 which are essentially identical to such other good or
23 material.

24 (4) GOOD WHOLLY OBTAINED OR PRODUCED
25 ENTIRELY IN THE TERRITORY OF ONE OR MORE
26 USMCA COUNTRIES.—The term "good wholly ob-

1 tained or produced entirely in the territory of one or
2 more USMCA countries" means any of the fol-
3 lowing:
4 (A) A mineral good or other naturally oc-
5 curring substance extracted or taken from the
6 territory of one or more USMCA countries.
7 (B) A plant, plant good, vegetable, or fun-
8 gus grown, cultivated, harvested, picked, or
9 gathered in the territory of one or more
10 USMCA countries.
11 (C) A live animal born and raised in the
12 territory of one or more USMCA countries.
13 (D) A good obtained in the territory of one
14 or more USMCA countries from a live animal.
15 (E) An animal obtained by hunting, trap-
16 ping, fishing, gathering, or capturing in the ter-
17 ritory of one or more USMCA countries.
18 (F) A good obtained in the territory of one
19 or more USMCA countries from aquaculture.
20 (G) A fish, shellfish, or other marine life
21 taken from the sea, seabed, or subsoil outside
22 the territory of one or more USMCA countries
23 and outside the territorial sea of any country
24 that is not a USMCA country by—

1 (i) a vessel that is registered or re-
2 corded with a USMCA country and flying
3 the flag of that country; or
4 (ii) a vessel that is documented under
5 the laws of the United States.
6 (H) A good produced on board a factory
7 ship from goods referred to in subparagraph
8 (G), if such factory ship—
9 (i) is registered or recorded with a
10 USMCA country and flies the flag of that
11 country; or
12 (ii) is a vessel that is documented
13 under the laws of the United States.
14 (I) A good, other than a good referred to
15 in subparagraph (G), that is taken by a
16 USMCA country, or a person of a USMCA
17 country, from the seabed or subsoil outside the
18 territory of a USMCA country, if that USMCA
19 country has the right to exploit such seabed or
20 subsoil.
21 (J) Waste and scrap derived from—
22 (i) production in the territory of one
23 or more USMCA countries; or
24 (ii) used goods collected in the terri-
25 tory of one or more USMCA countries, if

1 such goods are fit only for the recovery of
2 raw materials.
3 (K) A good produced in the territory of
4 one or more USMCA countries exclusively from
5 goods referred to in any of subparagraphs (A)
6 through (J), or from their derivatives, at any
7 stage of production.
8 (5) INDIRECT MATERIAL.—The term "indirect
9 material" means a material used or consumed in the
10 production, testing, or inspection of a good but not
11 physically incorporated into the good, or a material
12 used or consumed in the maintenance of buildings or
13 the operation of equipment associated with the pro-
14 duction of a good, including—
15 (A) fuel and energy;
16 (B) tools, dies, and molds;
17 (C) spare parts and materials used or con-
18 sumed in the maintenance of equipment or
19 buildings;
20 (D) lubricants, greases, compounding ma-
21 terials, and other materials used or consumed
22 in production or to operate equipment or build-
23 ings;
24 (E) gloves, glasses, footwear, clothing,
25 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).

1 (10) NONALLOWABLE INTEREST COSTS.—The
2 term "nonallowable interest costs" means interest
3 costs incurred by a producer that exceed 700 basis
4 points above the applicable official interest rate for
5 comparable maturities of the country in which the
6 producer is located.
7 (11) NONORIGINATING GOOD OR NONORIGI-
8 NATING MATERIAL.—The term "nonoriginating
9 good" or "nonoriginating material" means a good or
10 material, as the case may be, that does not qualify
11 as originating under this section.
12 (12) ORIGINATING GOOD; ORIGINATING MATE-
13 RIAL.—The term "originating good" or "originating
14 material" means a good or material, as the case may
15 be, that qualifies as originating under this section.
16 (13) PACKAGING MATERIALS AND CON-
17 TAINERS.—The term "packaging materials and con-
18 tainers" means materials and containers in which a
19 good is packaged for retail sale.
20 (14) PACKING MATERIALS AND CONTAINERS.—
21 The term "packing materials and containers" means
22 materials and containers that are used to protect a
23 good during transportation.
24 (15) PRODUCER.—The term "producer" means
25 a person who engages in the production of a good.

1 (16) PRODUCTION.—The term "production"
2 means—
3 (A) growing, cultivating, raising, mining,
4 harvesting, fishing, trapping, hunting, cap-
5 turing, breeding, extracting, manufacturing,
6 processing, or assembling a good; or
7 (B) the farming of aquatic organisms
8 through aquaculture.
9 (17) REASONABLY ALLOCATE.—The term "rea-
10 sonably allocate" means to apportion in a manner
11 appropriate to the circumstances.
12 (18) RECOVERED MATERIAL.—The term "re-
13 covered material" means a material in the form of
14 individual parts that are the result of—
15 (A) the disassembly of a used good into in-
16 dividual parts; and
17 (B) the cleaning, inspecting, testing, or
18 other processing that is necessary for improve-
19 ment to sound working condition of such indi-
20 vidual parts.
21 (19) REMANUFACTURED GOOD.—The term "re-
22 manufactured good" means a good classified in the
23 HTS under any of chapters 84 through 90 or under
24 heading 9402, other than a good classified under
25 heading 8418, 8509, 8510, 8516, or 8703 or sub-

1 heading 8414.51, 8450.11, 8450.12, 8508.11, or
2 8517.11, that—
3 (A) is entirely or partially composed of re-
4 covered materials;
5 (B) has a life expectancy similar to, and
6 performs in a manner that is the same as or
7 similar to, such a good when new; and
8 (C) has a factory warranty similar to that
9 applicable to such a good when new.
10 (20) ROYALTIES.—The term "royalties" means
11 payments of any kind, including payments under
12 technical assistance or similar agreements, made as
13 consideration for the use of, or right to use, a copy-
14 right, literary, artistic, or scientific work, patent,
15 trademark, design, model, plan, or secret formula or
16 secret process, excluding payments under technical
17 assistance or similar agreements that can be related
18 to a specific service such as—
19 (A) personnel training, without regard to
20 where the training is performed; or
21 (B) if performed in the territory of one or
22 more USMCA countries, engineering, tooling,
23 die-setting, software design and similar com-
24 puter services, or other services.

1 (21) SALES PROMOTION, MARKETING, AND
2 AFTER-SALES SERVICE COSTS.—The term "sales
3 promotion, marketing, and after-sales service costs"
4 means the costs related to sales promotion, mar-
5 keting, and after-sales service for the following:
6 (A) Sales and marketing promotion, media
7 advertising, advertising and market research,
8 promotional and demonstration materials, ex-
9 hibits, sales conferences, trade shows, conven-
10 tions, banners, marketing displays, free sam-
11 ples, sales, marketing, and after-sales service
12 literature (product brochures, catalogs, tech-
13 nical literature, price lists, service manuals, and
14 sales aid information), establishment and pro-
15 tection of logos and trademarks, sponsorships,
16 wholesale and retail charges, and entertain-
17 ment.
18 (B) Sales and marketing incentives, con-
19 sumer, retailer, or wholesaler rebates, and mer-
20 chandise incentives.
21 (C) Salaries and wages, sales commissions,
22 bonuses, benefits (such as medical, insurance,
23 and pension benefits), traveling and living ex-
24 penses, and membership and professional fees

1 for sales promotion, marketing, and after-sales
2 service personnel.
3 (D) Product liability insurance.
4 (E) Rent and depreciation of sales pro-
5 motion, marketing, and after-sales service of-
6 fices and distribution centers.
7 (F) Payments by the producer to other
8 persons for warranty repairs.
9 (G) If the costs are identified separately
10 for sales promotion, marketing, or after-sales
11 service of goods on the financial statements or
12 cost accounts of the producer, the following:
13 (i) Property insurance premiums,
14 taxes, utilities, and repair and maintenance
15 of sales promotion, marketing, and after-
16 sales service offices and distribution cen-
17 ters.
18 (ii) Recruiting and training of sales
19 promotion, marketing, and after-sales serv-
20 ice personnel, and after-sales training of
21 customers' employees.
22 (iii) Office supplies for sales pro-
23 motion, marketing, and after-sales service
24 of goods.

1 (iv) Telephone, mail, and other com-
2 munications.
3 (22) SELF-PRODUCED MATERIAL.—The term
4 "self-produced material" means a material that is
5 produced by the producer of a good and used in the
6 production of that good.
7 (23) SHIPPING AND PACKING COSTS.—The
8 term "shipping and packing costs" means the costs
9 incurred in packing a good for shipment and ship-
10 ping the good from the point of direct shipment to
11 the buyer, excluding the costs of preparing and
12 packaging the good for retail sale.
13 (24) TERRITORY.—The term "territory", with
14 respect to a USMCA country, has the meaning given
15 that term in section C of chapter 1 of the USMCA.
16 (25) TOTAL COST.—
17 (A) IN GENERAL.—The term "total
18 cost"—
19 (i) means all product costs, period
20 costs, and other costs for a good incurred
21 in the territory of one or more USMCA
22 countries; and
23 (ii) does not include—
24 (I) profits that are earned by the
25 producer of the good, regardless of

1 whether the costs are retained by the
2 producer or paid out to other persons
3 as dividends; or
4 (II) taxes paid on those profits,
5 including capital gains taxes.
6 (B) OTHER DEFINITIONS.—In this para-
7 graph:
8 (i) OTHER COSTS.—The term "other
9 costs" means all costs recorded on the
10 books of the producer that are not product
11 costs or period costs, such as interest.
12 (ii) PERIOD COSTS.—The term "pe-
13 riod costs" means costs, other than prod-
14 uct costs, that are expensed in the period
15 in which they are incurred, such as selling
16 expenses and general and administrative
17 expenses.
18 (iii) PRODUCT COSTS.—The term
19 "product costs" means costs that are asso-
20 ciated with the production of a good, in-
21 cluding the value of materials, direct labor
22 costs, and direct overhead.
23 (26) TRANSACTION VALUE.—The term "trans-
24 action value" means the price—

1 (A) actually paid or payable for a good or
2 material with respect to a transaction of a pro-
3 ducer; and
4 (B) adjusted in accordance with the prin-
5 ciples set forth in paragraphs 1, 3, and 4 of ar-
6 ticle 8 of the Customs Valuation Agreement.
7 (27) USMCA COUNTRY.—The term "USMCA
8 country" means the United States, Canada, or Mex-
9 ico for such time as the USMCA is in force with re-
10 spect to Canada or Mexico, and the United States
11 applies the USMCA to Canada or Mexico.
12 (28) VALUE.—The term "value" means the
13 value of a good or material for purposes of calcu-
14 lating customs duties or applying this section.
15 (b) APPLICATION AND INTERPRETATION.—In this
16 section:
17 (1) TARIFF CLASSIFICATION.—The basis for
18 any tariff classification is the HTS.
19 (2) REFERENCE TO HTS.—Whenever in this
20 section there is a reference to a chapter, heading, or
21 subheading, that reference shall be a reference to a
22 chapter, heading, or subheading of the HTS.
23 (3) COST OR VALUE.—Any cost or value re-
24 ferred to in this section with respect to a good shall
25 be recorded and maintained in accordance with the

1 generally accepted accounting principles applicable
2 in the territory of the USMCA country in which the
3 good is produced.
4 (c) ORIGINATING GOODS.—
5 (1) IN GENERAL.—For purposes of this Act
6 and for purposes of implementing the preferential
7 tariff treatment provided for under the USMCA, ex-
8 cept as otherwise provided in this section, a good is
9 an originating good if—
10 (A) the good is a good wholly obtained or
11 produced entirely in the territory of one or
12 more USMCA countries;
13 (B) the good is produced entirely in the
14 territory of one or more USMCA countries
15 using nonoriginating materials, if the good sat-
16 isfies all applicable requirements set forth in
17 Annex 4–B of the USMCA; or
18 (C) the good is produced entirely in the
19 territory of one or more USMCA countries, ex-
20 clusively from originating materials;
21 (D) except for a good provided for under
22 any of chapters 61 through 63—
23 (i) the good is produced entirely in the
24 territory of one or more USMCA countries;

1 (ii) one or more of the nonoriginating
2 materials provided for as parts under the
3 HTS and used in the production of the
4 good do not satisfy the requirements set
5 forth in Annex 4–B of the USMCA be-
6 cause—
7 (I) both the good and its mate-
8 rials are classified under the same
9 subheading or under the same head-
10 ing that is not further subdivided into
11 subheadings; or
12 (II) the good was imported into
13 the territory of a USMCA country in
14 an unassembled form or a disassem-
15 bled form but was classified as an as-
16 sembled good pursuant to rule 2(a) of
17 the General Rules of Interpretation of
18 the HTS; and
19 (iii) the regional value content of the
20 good is not less than 60 percent if the
21 transaction value method is used, or not
22 less than 50 percent if the net cost method
23 is used and the good satisfies all other ap-
24 plicable requirements of this section; or

1 (E) the good itself, as imported, is listed in
2 table 2.10.1 of the USMCA and is imported
3 into the territory of the United States from the
4 territory of a USMCA country.
5 (2) REMANUFACTURED GOODS.—For purposes
6 of determining whether a remanufactured good is an
7 originating good, a recovered material derived in the
8 territory of one or more USMCA countries shall be
9 treated as originating if the recovered material is
10 used or consumed in the production of, and incor-
11 porated into, the remanufactured good.
12 (d) REGIONAL VALUE CONTENT.—
13 (1) IN GENERAL.—Except as provided in para-
14 graph (5), for purposes of subparagraphs (B) and
15 (D) of subsection (c)(1), the regional value content
16 of a good shall be calculated, at the choice of the im-
17 porter, exporter, or producer of the good, on the
18 basis of—
19 (A) the transaction value method described
20 in paragraph (2); or
21 (B) the net cost method described in para-
22 graph (3).
23 (2) TRANSACTION VALUE METHOD.—
24 (A) IN GENERAL.—An importer, exporter,
25 or producer of a good may calculate the re-

1 gional value content of the good on the basis of
2 the following transaction value method:

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

3 (B) DEFINITIONS.—In this paragraph:
4 (i) RVC.—The term "RVC" means
5 the regional value content of the good, ex-
6 pressed as a percentage.
7 (ii) TV.—The term "TV" means the
8 transaction value of the good, adjusted to
9 exclude any costs incurred in the inter-
10 national shipment of the good.
11 (iii) VNM.—The term "VNM" means
12 the value of nonoriginating materials used
13 by the producer in the production of the
14 good.
15 (3) NET COST METHOD.—
16 (A) IN GENERAL.—An importer, exporter,
17 or producer of a good may calculate the re-
18 gional value content of the good on the basis of
19 the following net cost method:

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

20 (B) DEFINITIONS.—In this paragraph:
21 (i) NC.—The term "NC" means the
22 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,

1 during the course of a verification conducted in
2 accordance with chapter 5 or 6 of the USMCA,
3 that the transaction value of the good or the
4 value of any material used in the production of
5 the good must be adjusted or is unacceptable
6 under article 1 of the Customs Valuation
7 Agreement, the importer, exporter, or producer
8 may calculate the regional value content of the
9 good on the basis of the net cost method.
10 (B) REVIEW OF ADJUSTMENT.—Nothing
11 in subparagraph (A) shall be construed to pre-
12 vent any review or appeal available in accord-
13 ance with article 5.15 of the USMCA with re-
14 spect to an adjustment to or a rejection of—
15 (i) the transaction value of a good; or
16 (ii) the value of any material used in
17 the production of a good.
18 (7) CALCULATING NET COST.—The producer of
19 a good may, consistent with regulations imple-
20 menting this section, calculate the net cost of the
21 good under paragraph (3) by—
22 (A) calculating the total cost incurred with
23 respect to all goods produced by that producer,
24 subtracting any sales promotion, marketing,
25 and after-sales services costs, royalties, shipping

1 and packing costs, and nonallowable interest
2 costs that are included in the total cost of those
3 goods, and then reasonably allocating the re-
4 sulting net cost of those goods to the good;
5 (B) calculating the total cost incurred with
6 respect to all goods produced by that producer,
7 reasonably allocating the total cost to the good,
8 and subtracting any sales promotion, mar-
9 keting, and after-sales service costs, royalties,
10 shipping and packing costs, and nonallowable
11 interest costs, that are included in the portion
12 of the total cost allocated to the good; or
13 (C) reasonably allocating each cost that is
14 part of the total cost incurred with respect to
15 the good so that the aggregate of those costs
16 does not include any sales promotion, mar-
17 keting, and after-sales service costs, royalties,
18 shipping and packing costs, and nonallowable
19 interest costs.
20 (8) VALUE OF MATERIALS USED IN PRODUC-
21 TION.—For purposes of calculating the regional
22 value content of a good under this subsection, apply-
23 ing the de minimis rules under subsection (f), and
24 calculating the value of nonoriginating components

1 in a set under subsection (m), the value of a mate-
2 rial used in the production of a good is—
3 (A) in the case of a material that is im-
4 ported by the producer of the good, the trans-
5 action value of the material at the time of im-
6 portation, including the costs incurred in the
7 international shipment of the material;
8 (B) in the case of a material acquired in
9 the territory in which the good is produced—
10 (i) the price paid or payable by the
11 producer in the USMCA country where the
12 producer is located;
13 (ii) the value as determined under
14 subparagraph (A), as set forth in regula-
15 tions prescribed by the Secretary of the
16 Treasury providing for the application of
17 transaction value in the absence of an im-
18 portation by the producer; or
19 (iii) the earliest ascertainable price
20 paid or payable in the territory of the
21 country; or
22 (C) in the case of a self-produced material,
23 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.

1 (10) FURTHER ADJUSTMENTS TO VALUE OF
2 MATERIALS.—The following expenses, if included in
3 the value of a nonoriginating material calculated
4 under paragraph (8), may be deducted from the
5 value of the nonoriginating material:
6 (A) The costs of freight, insurance, pack-
7 ing, and all other costs incurred in transporting
8 the material to the location of the producer.
9 (B) Duties, taxes, and customs brokerage
10 fees on the material paid in the territory of one
11 or more USMCA countries, other than duties or
12 taxes that are waived, refunded, refundable, or
13 otherwise recoverable, including credit against
14 duty or tax paid or payable.
15 (C) The cost of waste and spoilage result-
16 ing from the use of the material in the produc-
17 tion of the good, less the value of renewable
18 scrap or byproducts.
19 (c) ACCUMULATION.—
20 (1) PRODUCERS.—A good that is produced in
21 the territory of one or more USMCA countries, by
22 one or more producers, is an originating good if the
23 good satisfies the requirements of subsection (c) and
24 all other applicable requirements of this section.

1 (2) ORIGINATING MATERIALS USED IN PRODUC-
2 TION OF GOODS OF A USMCA COUNTRY.—Origi-
3 nating materials from the territory of one or more
4 USMCA countries that are used in the production of
5 a good in the territory of another USMCA country
6 shall be considered to originate in the territory of
7 such other USMCA country.
8 (3) PRODUCTION UNDERTAKEN ON NONORIGI-
9 NATING MATERIALS USED IN THE PRODUCTION OF
10 GOODS.—In determining whether a good is an origi-
11 nating good under this section, production under-
12 taken on nonoriginating material in the territory of
13 one or more USMCA countries by one or more pro-
14 ducers shall contribute to the originating status of
15 the good, regardless of whether that production is
16 sufficient to confer originating status to the non-
17 originating material.
18 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
19 TERIALS.—
20 (1) IN GENERAL.—Except as provided in para-
21 graphs (2) through (4), a good that does not under-
22 go a change in tariff classification or satisfy a re-
23 gional value content requirement set forth in Annex
24 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 sub-

1 paragraph (C), a textile or apparel good pro-
2 vided for in any of chapters 50 through 60 or
3 heading 9619 that is not an originating good
4 because certain nonoriginating materials used
5 in the production of the good do not undergo an
6 applicable change in tariff classification set
7 forth in Annex 4–B of the USMCA, shall be
8 considered to be an originating good if the total
9 weight of all such materials, including elas-
10 tomeric yarns, is not more than 10 percent of
11 the total weight of the good and the good meets
12 all other applicable requirements of this section.
13 (B) GOODS CLASSIFIED UNDER CHAPTERS
14 61 THROUGH 63.—Except as provided in sub-
15 paragraph (C), a textile or apparel good pro-
16 vided for in chapter 61, 62, or 63 that is not
17 an originating good because certain fibers or
18 yarns used in the production of the component
19 of the good that determines the tariff classifica-
20 tion of the good do not undergo an applicable
21 change in tariff classification set forth in Annex
22 4–B of the USMCA shall be considered to be
23 an originating good if the total weight of all
24 such fibers or yarns in the component, includ-
25 ing elastomeric yarns, is not more than 10 per-

1 cent of the total weight of the component and
2 the good meets all other applicable require-
3 ments of this section.
4 (C) GOODS CONTAINING NONORIGINATING
5 ELASTOMERIC YARNS.—
6 (i) GOODS CLASSIFIED UNDER CHAP-
7 TERS 50 THROUGH 60 OR HEADING 9619 .—
8 A textile or apparel good described in sub-
9 paragraph (A) containing nonoriginating
10 elastomeric yarns shall be considered to be
11 an originating good only if the nonorigi-
12 nating elastomeric yarns contained in the
13 good do not exceed 7 percent of the total
14 weight of the good.
15 (ii) GOODS CLASSIFIED UNDER CHAP-
16 TERS 61 THROUGH 63.—A textile or ap-
17 parel good described in subparagraph (B)
18 containing nonoriginating elastomeric
19 yarns shall be considered to be an origi-
20 nating good only if the nonoriginating elas-
21 tomeric yarns contained in the component
22 of the good that determines the tariff clas-
23 sification of the good do not exceed 7 per-
24 cent of the total weight of the good.
25 (g) FUNGIBLE GOODS AND MATERIALS.—

1 (1) FUNGIBLE MATERIALS USED IN PRODUC-
2 TION.—Subject to paragraph (3), if originating and
3 nonoriginating fungible materials are used or con-
4 sumed in the production of a good, the determina-
5 tion of whether the materials are originating may be
6 made on the basis of any of the inventory manage-
7 ment methods set forth in regulations implementing
8 this section.
9 (2) FUNGIBLE GOODS COMMINGLED AND EX-
10 PORTED.—Subject to paragraph (3), if originating
11 and nonoriginating fungible goods are commingled
12 and exported in the same form, the determination of
13 whether the goods are originating may be made on
14 the basis of any of the inventory management meth-
15 ods set forth in regulations implementing this sec-
16 tion.
17 (3) USE OF INVENTORY MANAGEMENT METH-
18 OD.—A person that selects an inventory manage-
19 ment method for purposes of paragraph (1) or (2)
20 shall use that inventory management method
21 throughout the fiscal year of the person.
22 (h) ACCESSORIES, SPARE PARTS, TOOLS, AND IN-
23 STRUCTIONAL OR OTHER INFORMATION MATERIALS.—
24 (1) IN GENERAL.—Subject to paragraph (2),
25 accessories, spare parts, tools, or instructional or

1 other information materials delivered with a good
2 shall—
3 (A) be treated as originating if the good is
4 an originating good;
5 (B) be disregarded in determining whether
6 a good is a good wholly obtained or produced
7 entirely in the territory of one or more USMCA
8 countries or satisfies a process or change in tar-
9 iff classification set forth in Annex 4–B of the
10 USMCA; and
11 (C) be taken into account as originating or
12 nonoriginating materials, as the case may be, in
13 calculating any applicable regional value con-
14 tent of the good set forth in Annex 4–B of the
15 USMCA.
16 (2) CONDITIONS.—Paragraph (1) shall apply
17 only if—
18 (A) the accessories, spare parts, tools, or
19 instructional or other information materials are
20 classified with and delivered with, but not
21 invoiced separately from, the good; and
22 (B) the types, quantities, and value of the
23 accessories, spare parts, tools, or instructional
24 or other information materials are customary
25 for the good.

1 (i) PACKAGING MATERIALS AND CONTAINERS FOR
2 RETAIL SALE.—Packaging materials and containers in
3 which a good is packaged for retail sale, if classified with
4 the good, shall be disregarded in determining whether all
5 of the nonoriginating materials used in the production of
6 the good undergo the applicable process or change in tariff
7 classification requirement set forth in Annex 4–B of the
8 USMCA, or whether the good is a good wholly obtained
9 or produced entirely in the territory of one or more
10 USMCA countries. If the good is subject to a regional
11 value content requirement set forth in that Annex, the
12 value of such packaging materials and containers shall be
13 taken into account as originating or nonoriginating mate-
14 rials, as the case may be, in calculating the regional value
15 content of the good.
16 (j) PACKING MATERIALS AND CONTAINERS FOR
17 SHIPMENT.—Packing materials and containers for ship-
18 ment shall be disregarded in determining whether a good
19 is an originating good.
20 (k) INDIRECT MATERIALS.—An indirect material
21 shall be treated as an originating material without regard
22 to where it is produced.
23 (l) TRANSIT AND TRANSSHIPMENT.—A good that has
24 undergone production necessary to qualify as an origi-
25 nating good under subsection (c) shall not be considered

1 to be an originating good if, subsequent to that produc-
2 tion, the good—
3 (1) undergoes further production or any other
4 operation outside the territory of a USMCA country,
5 other than—
6 (A) unloading, reloading, separation from
7 a bulk shipment, storing, labeling, or marking,
8 as required by a USMCA country; or
9 (B) any other operation necessary to pre-
10 serve the good in good condition or to transport
11 the good to the territory of the importing
12 USMCA country; or
13 (2) does not remain under the control of cus-
14 toms authorities in a country other than a USMCA
15 country.
16 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
17 SETS.—
18 (1) GOODS OTHER THAN TEXTILE OR APPAREL
19 GOODS.—Notwithstanding the rules set forth in
20 Annex 4–B of the USMCA, goods classifiable as
21 goods put up in sets for retail sale as provided for
22 in rule 3 of the General Rule of Interpretation of the
23 HTS shall not be considered to be originating goods
24 unless—

1 (A) each of the goods in the set is an origi-
2 nating good; or
3 (B) the total value of the nonoriginating
4 goods in the set does not exceed 10 percent of
5 the value of the set.
6 (2) TEXTILE OR APPAREL GOODS.—Notwith-
7 standing the rules set forth in Annex 4–B of the
8 USMCA, goods classifiable as goods put up in sets
9 for retail sale as provided for in rule 3 of the Gen-
10 eral Rule of Interpretation of the HTS shall not be
11 considered to be originating goods unless—
12 (A) each of the goods in the set is an origi-
13 nating good; or
14 (B) the total value of the nonoriginating
15 goods in the set does not exceed 10 percent of
16 the value of the set.
17 (n) NONQUALIFYING OPERATIONS.—A good shall not
18 be considered to be an originating good merely by reason
19 of—
20 (1) mere dilution with water or another sub-
21 stance that does not materially alter the characteris-
22 tics of the good; or
23 (2) any production or pricing practice with re-
24 spect to which it may be demonstrated, by a prepon-

1 derance of the evidence, that the object of the prac-
2 tice was to circumvent this section.
3 (o) EFFECTIVE DATE.—
4 (1) IN GENERAL.—This section shall—
5 (A) take effect on the date on which the
6 USMCA enters into force; and
7 (B) apply with respect to a good entered
8 for consumption, or withdrawn from warehouse
9 for consumption, on or after that date.
10 (2) TRANSITION FROM NAFTA TREATMENT.—
11 Section 202 of the North American Free Trade
12 Agreement Implementation Act (19 U.S.C. 3332), as
13 in effect on the day before the date on which the
14 USMCA enters into force, shall continue to apply on
15 and after that date with respect to a good entered
16 for consumption, or withdrawn from warehouse for
17 consumption, before that date.
18 **SEC. 202A. SPECIAL RULES FOR AUTOMOTIVE GOODS.**
19 (a) DEFINITIONS.—In this section:
20 (1) ALTERNATIVE STAGING REGIME.—The term
21 "alternative staging regime" means the application,
22 pursuant to subsection (d), of the requirements of
23 article 8 of the automotive appendix to the produc-
24 tion of covered vehicles to allow producers of such
25 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.

1 (7) COVERED VEHICLE.—The term "covered ve-
2 hicle" means a passenger vehicle, light truck, or
3 heavy truck.
4 (8) INTERAGENCY COMMITTEE.—The term
5 "interagency committee" means the interagency
6 committee established under subsection (b)(1).
7 (9) PASSENGER VEHICLE; LIGHT TRUCK;
8 HEAVY TRUCK.—The terms "passenger vehicle",
9 "light truck", and "heavy truck" have the meanings
10 given those terms in article 1 of the automotive ap-
11 pendix.
12 (10) USMCA COUNTRY.—The term "USMCA
13 country" means the United States, Canada, or Mex-
14 ico for such time as the USMCA is in force with re-
15 spect to Canada or Mexico, and the United States
16 applies the USMCA to Canada or Mexico.
17 (b) ESTABLISHMENT OF INTERAGENCY COM-
18 MITTEE.—
19 (1) IN GENERAL.—Not later than 30 days after
20 the date of the enactment of this Act, the President
21 shall establish an interagency committee—
22 (A) to provide advice, as appropriate, on
23 the implementation, enforcement, and modifica-
24 tion of provisions of the USMCA that relate to

1 automotive goods, including the alternative
2 staging regime; and
3 (B) to review the operation of the USMCA
4 with respect to trade in automotive goods, in-
5 cluding—
6 (i) the economic effects of the auto-
7 motive rules of origin on the United States
8 economy, workers, and consumers; and
9 (ii) the impact of new technology on
10 such rules of origin.
11 (2) MEMBERS.—The members of the inter-
12 agency committee shall be the following:
13 (A) The Trade Representative.
14 (B) The Secretary of Commerce.
15 (C) The Commissioner.
16 (D) The Secretary of Labor.
17 (E) The Chair of the International Trade
18 Commission.
19 (F) Any other members determined to be
20 necessary by the Trade Representative.
21 (3) CHAIR.—The chair of the interagency com-
22 mittee shall be the Trade Representative.
23 (4) USE OF INFORMATION.—
24 (A) INFORMATION SHARING.—Notwith-
25 standing any other provision of law, the mem-

1 bers of the interagency committee may ex-
2 change information for purposes of carrying out
3 this section.
4 (B) CONFIDENTIALITY OF INFORMA-
5 TION.—The interagency committee and any
6 Federal agency represented on the interagency
7 committee may not disclose to the public any
8 confidential documents or information received
9 in the course of carrying out this section, except
10 information aggregated to preserve confiden-
11 tiality and used in the reports described in sub-
12 section (g).
13 (c) CERTIFICATION REQUIREMENTS.—
14 (1) CERTIFICATION RELATING TO LABOR
15 VALUE CONTENT REQUIREMENTS.—
16 (A) IN GENERAL.—A covered vehicle shall
17 be eligible for preferential tariff treatment only
18 if the producer of the covered vehicle—
19 (i) provides a certification to the Com-
20 missioner that the production of covered
21 vehicles by the producer meets the labor
22 value content requirements, including the
23 high-wage material and manufacturing ex-
24 penditures, high-wage technology expendi-
25 tures, and high-wage assembly expendi-

1 tures, as set forth in article 7 of the auto-
2 motive appendix or, if the producer is sub-
3 ject to the alternative staging regime, arti-
4 cles 7 and 8 of that appendix, and includes
5 the calculations of the producer related to
6 the labor value content requirements; and
7 (ii) has information on record to sup-
8 port those calculations.
9 (B) IMPLEMENTATION.—For purposes of
10 meeting the requirements under subparagraph
11 (A)—
12 (i) the Secretary of Labor, in con-
13 sultation with the Commissioner, shall en-
14 sure that the certification of a producer
15 under subparagraph (A)(i) does not con-
16 tain omissions or errors before the certifi-
17 cation is considered properly filed; and
18 (ii) a calculation described in subpara-
19 graph (A)(i) based on a producer's pre-
20 ceding fiscal or calendar year is valid for
21 the producer's subsequent fiscal or cal-
22 endar year, as the case may be, as set
23 forth in articles 7 and 8 of the automotive
24 appendix.

1 (C) REGULATIONS REQUIRED.—The Sec-
2 retary of the Treasury, in consultation with the
3 Secretary of Labor, shall prescribe regulations
4 to carry out this paragraph, including regula-
5 tions setting forth the procedures and require-
6 ments for a producer of covered vehicles to es-
7 tablish that the producer meets the labor value
8 content requirements for preferential tariff
9 treatment.
10 (2) CERTIFICATION RELATING TO STEEL AND
11 ALUMINUM PURCHASE REQUIREMENTS.—
12 (A) IN GENERAL.—A covered vehicle shall
13 be eligible for preferential tariff treatment only
14 if the producer of the covered vehicle—
15 (i) provides a certification to the Com-
16 missioner that the production of covered
17 vehicles by the producer meets the steel
18 and aluminum purchase requirements set
19 forth in article 6 of the automotive appen-
20 dix or, if the producer is subject to the al-
21 ternative staging regime, articles 6 and 8
22 of that appendix; and
23 (ii) has information on record to sup-
24 port the calculations relied on for the cer-
25 tification.

1 (B) IMPLEMENTATION.—For purposes of
2 meeting the requirements under subparagraph
3 (A)—
4 (i) the Commissioner shall ensure that
5 the certification of a producer under sub-
6 paragraph (A)(i) does not contain omis-
7 sions or errors before the certification is
8 considered properly filed; and
9 (ii) a calculation described in subpara-
10 graph (A)(ii) based on a producer's pre-
11 ceding fiscal or calendar year is valid for
12 the producer's subsequent fiscal or cal-
13 endar year, as the case may be, as set
14 forth in articles 6 and 8 of the automotive
15 appendix.
16 (C) REGULATIONS REQUIRED.—The Sec-
17 retary of the Treasury shall prescribe regula-
18 tions to carry out this paragraph, including reg-
19 ulations setting forth the procedures and re-
20 quirements for a producer of covered vehicles to
21 establish that the producer meets the steel and
22 aluminum purchase requirements for pref-
23 erential tariff treatment.
24 (d) ALTERNATIVE STAGING REGIME.—

1 (1) PUBLICATION OF REQUIREMENTS.—Not
2 later than 90 days after the date of the enactment
3 of this Act, the Trade Representative, in consulta-
4 tion with the interagency committee, shall publish in
5 the Federal Register requirements, procedures, and
6 guidance required to implement the alternative stag-
7 ing regime, including with respect to the following:
8 (A) The procedures, calculation method-
9 ology, timeframe, specific regional value content
10 thresholds, and other minimum requirements,
11 consistent with article 8 of the automotive ap-
12 pendix, with which a producer of covered vehi-
13 cles subject to the alternative staging regime is
14 required to comply during the alternative stag-
15 ing regime period for such vehicles to be eligible
16 for preferential tariff treatment pursuant to the
17 alternative staging regime.
18 (B) The date by which requests for the al-
19 ternative staging regime are required to be sub-
20 mitted.
21 (C) The information a producer of pas-
22 senger vehicles or light trucks is required to
23 provide, in the producer's request to use the al-
24 ternative staging regime, to demonstrate the ac-
25 tions that the producer will take to be prepared

1 to meet all the requirements set forth in articles
2 2 through 7 of the automotive appendix after
3 the alternative staging regime period has ex-
4 pired, including the following:
5 (i) A statement identifying which of
6 the requirements set forth in articles 2
7 through 7 of the automotive appendix that
8 the producer expects it will be unable to
9 meet upon entry into force of the USMCA
10 based on current business plans.
11 (ii) A statement indicating whether
12 the passenger vehicles or light trucks for
13 which the producer seeks to use the alter-
14 native staging regime account for 10 per-
15 cent or less, or more than 10 percent, of
16 the total production of passenger vehicles
17 or light trucks, as the case may be, in
18 USMCA countries by the producer during
19 the 12-month period preceding the date on
20 which the USMCA enters into force, or the
21 average of such production during the 36-
22 month period preceding that date, which-
23 ever is greater.
24 (iii) In the case of a producer that
25 seeks to use the alternative staging regime

1 for more than 10 percent of the producer's
2 total production of passenger vehicles or
3 light trucks, as the case may be, in
4 USMCA countries—
5 (I) a detailed and credible plan
6 describing with specificity the actions
7 the producer intends to take to bring
8 production of the passenger vehicles
9 or light trucks, as the case may be,
10 into compliance with the requirements
11 set forth in articles 2 through 7 of the
12 automotive appendix after the alter-
13 native staging regime period expires;
14 and
15 (II) a statement indicating the
16 time period for which the producer is
17 requesting to use the alternative stag-
18 ing regime, if that time period is
19 greater than 5 years after the
20 USMCA enters into force.
21 (D) The procedures for accepting and re-
22 viewing requests for the alternative staging re-
23 gime, including that the Trade Representative
24 will—

1 (i) notify a producer of any defi-
2 ciencies in the request of the producer that
3 would result in a denial of the request not
4 later than 30 days after the request is sub-
5 mitted; and
6 (ii) provide producers the opportunity
7 to submit supplemental information.
8 (E) The criteria the Trade Representative,
9 in consultation with the interagency committee,
10 will consider when determining whether to ap-
11 prove a request for the alternative staging re-
12 gime. Such criteria shall only include elements
13 necessary for the producer to demonstrate the
14 producer's ability to meet the requirements
15 specified in subparagraphs (A) and (B). The
16 criteria shall also describe the information to
17 meet those requirements in sufficient detail to
18 allow the producer to identify the information
19 necessary to complete a request for the alter-
20 native staging regime.
21 (F) The opportunity for a producer de-
22 scribed in subparagraph (C)(iii) to modify the
23 producer's request for the alternative staging
24 regime.

1 (2) REVIEW OF REQUESTS FOR ALTERNATIVE
2 STAGING REGIME.—
3 (A) IN GENERAL.—In reviewing the re-
4 quest of a producer of passenger vehicles or
5 light trucks for the alternative staging regime,
6 the Trade Representative, in consultation with
7 the interagency committee, shall determine—
8 (i) whether the request covers 10 per-
9 cent or less, or more than 10 percent, of
10 the production of passenger vehicles or
11 light trucks in USMCA countries by the
12 producer; and
13 (ii) whether the producer has identi-
14 fied with specificity which of the require-
15 ments set forth in articles 2 through 7 of
16 the automotive appendix the producer is
17 unable to meet based on current business
18 plans.
19 (B) APPROVAL OF ALTERNATIVE STAGING
20 REGIME FOR PASSENGER VEHICLE OR LIGHT
21 TRUCK PRODUCTION NOT EXCEEDING 10 PER-
22 CENT OF NORTH AMERICAN PRODUCTION.—The
23 Trade Representative shall authorize the use of
24 the alternative staging regime if the Trade Rep-

1 resentative, in consultation with the interagency
2 committee, determines that—
3 (i) the request for the alternative
4 staging regime covers passenger vehicles or
5 light trucks that do not exceed 10 percent
6 of the production of passenger vehicles or
7 lights trucks, as the case may be, in
8 USMCA countries by the producer; and
9 (ii) the producer has identified with
10 specificity which of the requirements set
11 forth in articles 2 through 7 of the auto-
12 motive appendix the producer is unable to
13 meet based on current business plans.
14 (C) APPROVAL OF ALTERNATIVE STAGING
15 REGIME FOR PASSENGER VEHICLE OR LIGHT
16 TRUCK PRODUCTION EXCEEDING 10 PERCENT
17 OF NORTH AMERICAN PRODUCTION.—The
18 Trade Representative shall authorize the use of
19 the alternative staging regime if the Trade Rep-
20 resentative, in consultation with the interagency
21 committee, determines that—
22 (i) the request for the alternative
23 staging regime covers more than 10 per-
24 cent of the production of passenger vehi-

1 cles or lights trucks, as the case may be,
2 in USMCA countries by the producer;
3 (ii) the producer has identified with
4 specificity which of the requirements set
5 forth in articles 2 through 7 of the auto-
6 motive appendix the producer is unable to
7 meet based on current business plans; and
8 (iii) the detailed and credible plan of
9 the producer submitted under paragraph
10 (1)(C)(iii) is based on substantial evidence
11 and reasonably calculated to bring the pro-
12 duction of the passenger vehicles or light
13 trucks, as the case may be, into compliance
14 with the requirements set forth in articles
15 2 through 7 of the automotive appendix
16 after the alternative staging regime period
17 has expired.
18 (3) PROCEDURES RELATED TO REVIEWING AND
19 APPROVING REQUESTS.—
20 (A) DEADLINE FOR REVIEW.—Not later
21 than 120 days after receiving a request of a
22 producer for the alternative staging regime, the
23 Trade Representative, in consultation with the
24 interagency committee, shall—
25 (i) review the request;

1 (ii) make a determination with respect
2 to whether to authorize the use of the al-
3 ternative staging regime; and
4 (iii) provide to each producer a re-
5 sponse in writing stating whether the pro-
6 ducer may use the alternative staging re-
7 gime.
8 (B) ESTABLISHMENT OF A PUBLIC LIST.—
9 The Trade Representative shall maintain, and
10 update as necessary, a public list of the pro-
11 ducers of covered vehicles that have been au-
12 thorized to use the alternative staging regime.
13 (C) REPORTING.—Before a determination
14 is made with respect to whether to authorize
15 the use of the alternative staging regime, the
16 Trade Representative shall provide to the ap-
17 propriate congressional committees a summary
18 of requests for the alternative staging regime.
19 (4) ALTERNATIVE STAGING REGIME REVIEW
20 AND MODIFICATION.—
21 (A) MATERIAL CHANGES TO CIR-
22 CUMSTANCES.—
23 (i) NOTIFICATION.—If the request of
24 a producer to use the alternative staging
25 regime for more than 10 percent of the

1 total production of passenger vehicles or
2 light trucks, as the case may be, in
3 USMCA countries by the producer has
4 been granted, the producer shall notify the
5 Trade Representative and the interagency
6 committee of any material changes to the
7 information contained in the request, in-
8 cluding any supplemental information re-
9 lating to that request, and of any material
10 changes to circumstances, that will affect
11 the producer's ability to meet any of the
12 requirements set forth in articles 2
13 through 7 of the automotive appendix after
14 the alternative staging regime period has
15 expired.

16 (ii) REQUESTS FOR MODIFICATION OF
17 PLANS.—

18 (I) IN GENERAL.—A producer
19 that submits a notification under
20 clause (i) with respect to a change de-
21 scribed in that clause may submit to
22 the Trade Representative and the
23 interagency committee a request for
24 modification of its plan.

1 (II) DETERMINATION REGARDING
2 MODIFICATION.—Not later than 90
3 days after receiving a request sub-
4 mitted under subclause (I), the Trade
5 Representative, in consultation with
6 the interagency committee, shall—
7 (aa) review the request;
8 (bb) make a determination
9 with respect to whether the modi-
10 fied plan is based on substantial
11 evidence and reasonably cal-
12 culated to ensure that the pro-
13 ducer will still be able to meet
14 the requirements set forth in ar-
15 ticles 2 through 7 of the auto-
16 motive appendix after the alter-
17 native staging regime period has
18 expired;
19 (cc) if the Trade Represent-
20 ative makes an affirmative deter-
21 mination under item (bb), ap-
22 prove the modified plan; and
23 (dd) notify the producer in
24 writing of the determination.

1 (iii) INABILITY TO MEET REQUIRE-
2 MENTS.—If the Trade Representative, in
3 consultation with the interagency com-
4 mittee, determines that the information
5 provided by a producer under clause (i)
6 demonstrates that the producer will no
7 longer be able to meet the requirements set
8 forth in articles 2 through 7 of the auto-
9 motive appendix after the alternative stag-
10 ing regime period has expired, the Trade
11 Representative shall notify the producer in
12 writing, and no claim for preferential tariff
13 treatment may be made, on or after the
14 date of the determination, with respect to
15 a covered vehicle of the producer pursuant
16 to the alternative staging regime.
17 (5) FAILURE TO MEET REQUIREMENTS FOR AL-
18 TERNATIVE STAGING REGIME.—
19 (A) IN GENERAL.—If, at any time, the
20 Trade Representative, in consultation with the
21 interagency committee, makes a determination
22 described in subparagraph (B) with respect to
23 a producer of covered vehicles subject to the al-
24 ternative staging regime—

1 (i) any claim for preferential tariff
2 treatment under the alternative staging re-
3 gime for any covered vehicle of that pro-
4 ducer shall be considered invalid; and
5 (ii) notwithstanding the finality of a
6 liquidation of an entry, the importer of any
7 covered vehicle of that producer shall be
8 liable for the duties, taxes, and fees that
9 would have been applicable to that vehicle
10 if preferential tariff treatment pursuant to
11 the alternative staging regime had not ap-
12 plied when the vehicle was entered for con-
13 sumption, or withdrawn from warehouse
14 for consumption, plus interest assessed on
15 or after the date of entry and before the
16 date of the determination.
17 (B) DETERMINATION DESCRIBED.—A de-
18 termination described in this subparagraph is a
19 determination that a producer of covered vehi-
20 cles subject to the alternative staging regime—
21 (i) has failed to take the steps set
22 forth in the producer's request for the al-
23 ternative staging regime and, as a result of
24 that failure, the producer will no longer be
25 able to meet the requirements set forth in

1 articles 2 through 7 of the automotive ap-
2 pendix after the alternative staging regime
3 period has expired;
4 (ii) has provided false or misleading
5 information in the producer's request; or
6 (iii) in the case of a producer author-
7 ized to use the alternative staging regime
8 for more than 10 percent of the total pro-
9 duction of passenger vehicles or light
10 trucks in USMCA countries by the pro-
11 ducer, has failed to notify the Trade Rep-
12 resentative under paragraph (4)(A) of ma-
13 terial changes to circumstances that will
14 prevent the producer from meeting any of
15 the requirements set forth in articles 2
16 through 7 of the automotive appendix after
17 the alternative staging regime period has
18 expired.
19 (e) VERIFICATION OF LABOR VALUE CONTENT RE-
20 QUIREMENTS.—
21 (1) IN GENERAL.—As part of a verification con-
22 ducted under section 207, the Secretary of the
23 Treasury, in conjunction with the Secretary of
24 Labor, may conduct a verification of whether a cov-
25 ered vehicle complies with the labor value content re-

1 quirements set forth in article 7 of the automotive
2 appendix or, if the producer is subject to the alter-
3 native staging regime under subsection (d), articles
4 7 and 8 of that appendix.

5 (2) ROLE OF SECRETARY OF LABOR.—In co-
6 operation with the Secretary of the Treasury, the
7 Secretary of Labor shall participate in any
8 verification conducted under paragraph (1) by
9 verifying whether the production of covered vehicles
10 by a producer meets the high-wage components of
11 the labor value content requirements, including the
12 wage component of the high-wage material and man-
13 ufacturing expenditures, the high-wage technology
14 expenditures, and the high-wage assembly expendi-
15 tures, within the meaning given those terms in arti-
16 cle 7 of that appendix.

17 (3) ROLE OF SECRETARY OF THE TREASURY.—
18 The Secretary of the Treasury shall participate in
19 any verification conducted under paragraph (1) by
20 verifying—

21 (A) the components of the labor value con-
22 tent requirements not covered by paragraph
23 (2), including the annual purchase value and
24 cost components of the high-wage material and
25 manufacturing expenditures, within the mean-

1 ing given those terms in article 7 of that appen-
2 dix; and
3 (B) whether the producer has met the
4 labor value content requirements.
5 (4) ACTIONS BY SECRETARY OF LABOR.—
6 (A) IN GENERAL.—In participating in a
7 verification conducted under paragraph (1), the
8 Secretary of Labor shall assist the Secretary of
9 the Treasury to do the following:
10 (i) Examine, or cause to be examined,
11 upon reasonable notice, any record (includ-
12 ing any statement, declaration, document,
13 or electronically generated or machine
14 readable data) described in the notice with
15 reasonable specificity.
16 (ii) Request information from any of-
17 ficer, employee, or agent of a producer of
18 automotive goods, as necessary, that may
19 be relevant with respect to whether the
20 production of covered vehicles meets the
21 high-wage components of the labor value
22 content requirements set forth in article 7
23 of the automotive appendix or, if the pro-
24 ducer is subject to the alternative staging

1 regime under subsection (d), articles 7 and
2 8 of that appendix.
3 (B) NATURE OF INFORMATION RE-
4 QUESTED.—Records and information that may
5 be examined or requested under subparagraph
6 (A) may relate to wages, hours, job responsibil-
7 ities, and other information in any plant or fa-
8 cility relied on by a producer of covered vehicles
9 to demonstrate that the production of such ve-
10 hicles by the producer meets the labor value
11 content requirements set forth in article 7 of
12 the automotive appendix or, if the producer is
13 subject to the alternative staging regime under
14 subsection (d), articles 7 and 8 of that appen-
15 dix.
16 (5) WHISTLEBLOWER PROTECTIONS.—
17 (A) UNLAWFUL ACTS.—It is unlawful to
18 intimidate, threaten, restrain, coerce, blacklist,
19 discharge, or in any other manner discriminate
20 against any person for—
21 (i) disclosing information to a Federal
22 agency or to any person relating to a
23 verification under this subsection; or
24 (ii) cooperating or seeking to cooper-
25 ate in a verification under this subsection.

1 (B) ENFORCEMENT.—The Secretary of the
2 Treasury and the Secretary of Labor are au-
3 thorized to take such actions under existing
4 law, including imposing appropriate penalties
5 and seeking appropriate injunctive relief, as
6 may be necessary to ensure compliance with
7 this subsection and as provided for in existing
8 regulations.
9 (6) PROTESTS OF DECISIONS OF U.S. CUSTOMS
10 AND BORDER PROTECTION.—
11 (A) IN GENERAL.—If a protest under sec-
12 tion 514 of the Tariff Act of 1930 (19 U.S.C.
13 1514) of a decision of U.S. Customs and Bor-
14 der Protection with respect to the eligibility for
15 preferential tariff treatment of a covered vehicle
16 relates to the analysis of the Department of
17 Labor relating to the high-wage components of
18 the labor value content requirements described
19 in paragraph (1), the Secretary of Labor
20 shall—
21 (i) conduct an administrative review
22 of the portion of the decision relating to
23 such requirements; and
24 (ii) provide the results of that review
25 to the Commissioner.

1 (B) NO ACCELERATED DISPOSITION.—An
2 importer may not request the accelerated dis-
3 position under section 515(b) of the Tariff Act
4 of 1930 (19 U.S.C. 1515(b)) of a protest
5 against a decision of the Commissioner de-
6 scribed in subparagraph (A).
7 (f) ADMINISTRATION BY DEPARTMENT OF LABOR.—
8 The Secretary of Labor is authorized to establish or des-
9 ignate an office within the Department of Labor to carry
10 out the provisions of this section for which the Depart-
11 ment is responsible.
12 (g) REVIEW AND REPORTS.—
13 (1) PERIODIC REVIEW ON AUTOMOTIVE RULES
14 OF ORIGIN.—
15 (A) IN GENERAL.—The Trade Representa-
16 tive, in consultation with the interagency com-
17 mittee, shall conduct a biennial review of the
18 operation of the USMCA with respect to trade
19 in automotive goods, including—
20 (i) to the extent practicable, a sum-
21 mary of actions taken by producers to
22 demonstrate compliance with the auto-
23 motive rules of origin, use of the alter-
24 native staging regime, enforcement of such

1 rules of origin, and other relevant matters;
2 and
3 (ii) whether the automotive rules of
4 origin are effective and relevant in light of
5 new technology and changes in the content,
6 production processes, and character of
7 automotive goods.
8 (B) REPORT.—
9 (i) IN GENERAL.—The Trade Rep-
10 resentative shall submit to the appropriate
11 congressional committees a report on each
12 review conducted under subparagraph (A).
13 (ii) INITIAL REPORT.—The first re-
14 port required under clause (i) shall be sub-
15 mitted not later than 2 years after the
16 date on which the USMCA enters into
17 force.
18 (iii) TERMINATION OF REPORTING RE-
19 QUIREMENT.—The requirement to submit
20 reports under clause (i) shall terminate on
21 the date that is 10 years after the date on
22 which the USMCA enters into force.
23 (2) REPORT BY INTERNATIONAL TRADE COM-
24 MISSION.—Not later than 1 year after the submis-
25 sion of the first report required by paragraph

1 (1)(B), and every 2 years thereafter until the date
2 that is 12 years after the date on which the USMCA
3 enters into force, the International Trade Commis-
4 sion shall submit to the appropriate congressional
5 committees and the President a report on—
6 (A) the economic impact of the automotive
7 rules of origin on—
8 (i) the gross domestic product of the
9 United States;
10 (ii) exports from and imports into the
11 United States;
12 (iii) aggregate employment and em-
13 ployment opportunities in the United
14 States;
15 (iv) production, investment, use of
16 productive facilities, and profit levels in the
17 automotive industries and other pertinent
18 industries in the United States affected by
19 the automotive rules of origin;
20 (v) wages and employment of workers
21 in the automotive sector in the United
22 States; and
23 (vi) the interests of consumers in the
24 United States;

1 (B) the operation of the automotive rules
2 of origin and their effects on the competitive-
3 ness of the United States with respect to pro-
4 duction and trade in automotive goods, taking
5 into account developments in technology, pro-
6 duction processes, or other related matters;
7 (C) whether the automotive rules of origin
8 are relevant in light of technological changes in
9 the United States; and
10 (D) such other matters as the Inter-
11 national Trade Commission considers relevant
12 to the economic impact of the automotive rules
13 of origin, including prices, sales, inventories,
14 patterns of demand, capital investment, obsoles-
15 cence of equipment, and diversification of pro-
16 duction in the United States.
17 (3) REPORT BY COMPTROLLER GENERAL.—Not
18 later than 4 years after the date on which the
19 USMCA enters into force, the Comptroller General
20 of the United States shall submit to the Committee
21 on Appropriations and the Committee on Ways and
22 Means of the House of Representatives and the
23 Committee on Appropriations and the Committee on
24 Finance of the Senate a report assessing the effec-
25 tiveness of United States Government interagency

1 coordination on implementation, enforcement, and
2 verification of the automotive rules of origin and the
3 customs procedures of the USMCA with respect to
4 automotive goods.

5 (4) PUBLIC PARTICIPATION.—Before submit-
6 ting a report under paragraph (1)(B) or (2), the
7 agency responsible for the report shall—

8 (A) solicit information relating to matters
9 that will be addressed in the report from pro-
10 ducers of automotive goods, labor organizations,
11 and other interested parties;

12 (B) provide for an opportunity for the sub-
13 mission of comments, orally or in writing, from
14 members of the public relating to such matters;
15 and

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

20 (h) EFFECTIVE DATE.—This section shall—

21 (1) take effect on the date of the enactment of
22 this Act; and

23 (2) apply with respect to goods entered, or
24 withdrawn from warehouse for consumption, on or

1 after the date on which the USMCA enters into
2 force.

3 **SEC. 203. MERCHANDISE PROCESSING FEE.**

4 (a) IN GENERAL.—Section 13031(b)(10) of the Con-
5 solidated Omnibus Budget Reconciliation Act of 1985 (19
6 U.S.C. 58c(b)(10)) is amended by striking subparagraph
7 (B) and inserting the following:

8 "(B) No fee may be charged under paragraph (9) or
9 (10) of subsection (a) with respect to goods that qualify
10 as originating goods under section 202 of the United
11 States-Mexico-Canada Agreement Implementation Act or
12 qualify for duty-free treatment under Annex 6–A of the
13 USMCA (as defined in section 3 of that Act). Any service
14 for which an exemption from such fee is provided by rea-
15 son of this paragraph may not be funded with money con-
16 tained in the Customs User Fee Account.".

17 (b) EFFECTIVE DATE.—

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

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

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

1 (2) TRANSITION FROM NAFTA TREATMENT.—In
2 the case of a good entered or released before the
3 date on which the USMCA enters into force—
4 (A) the amendments made by subsection
5 (a) to section 13031(b)(10)(B) of the Consoli-
6 dated Omnibus Budget Reconciliation Act of
7 1985 (19 U.S.C. 58c(b)(10)(B)) shall not apply
8 with respect to the good; and
9 (B) section 13031(b)(10)(B) of such Act,
10 as in effect on the day before that date, shall
11 continue to apply on and after that date with
12 respect to the good.
13 (3) ENTERED OR RELEASED DEFINED.—In this
14 subsection, the term "entered or released" has the
15 meaning given that term in section 13031(b)(8)(E)
16 of the Consolidated Omnibus Budget Reconciliation
17 Act of 1985 (19 U.S.C. 58c(b)(8)(E)).

18 **SEC. 204. DISCLOSURE OF INCORRECT INFORMATION;**
19 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**
20 **OF PREFERENTIAL TARIFF TREATMENT.**

21 (a) DISCLOSURE OF INCORRECT INFORMATION.—
22 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)
23 is amended—
24 (1) in subsection (c), by striking paragraph (5)
25 and inserting the following:

1 "(5) PRIOR DISCLOSURE REGARDING CLAIMS
2 UNDER THE USMCA.—An importer shall not be sub-
3 ject to penalties under subsection (a) for making an
4 incorrect claim that a good qualifies as an origi-
5 nating good under section 202 of the United States-
6 Mexico-Canada Agreement Implementation Act if
7 the importer, in accordance with regulations pre-
8 scribed by the Secretary of the Treasury, promptly
9 makes a corrected declaration and pays any duties
10 owing with respect to that good."; and
11 (2) by striking subsection (f) and inserting the
12 following:
13 "(f) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
14 USMCA.—
15 "(1) IN GENERAL.—Subject to paragraph (2),
16 it is unlawful for any person to certify falsely, by
17 fraud, gross negligence, or negligence, in a USMCA
18 certification of origin (as such term is defined in sec-
19 tion 508 of this Act) that a good exported from the
20 United States qualifies as an originating good under
21 the rules of origin provided for in section 202 of the
22 United States-Mexico-Canada Agreement Implemen-
23 tation Act. The procedures and penalties of this sec-
24 tion that apply to a violation of subsection (a) also
25 apply to a violation of this subsection.

1 "(2) PROMPT AND VOLUNTARY DISCLOSURE OF
2 INCORRECT INFORMATION.—No penalty shall be im-
3 posed under this subsection if, promptly after an ex-
4 porter or producer that issued a USMCA certifi-
5 cation of origin has reason to believe that such cer-
6 tification contains or is based on incorrect informa-
7 tion, the exporter or producer voluntarily provides
8 written notice of such incorrect information to every
9 person to whom the certification was issued.
10 "(3) EXCEPTION.—A person shall not be con-
11 sidered to have violated paragraph (1) if—
12 "(A) the information was correct at the
13 time it was provided in a USMCA certification
14 of origin but was later rendered incorrect due
15 to a change in circumstances; and
16 "(B) the person promptly and voluntarily
17 provides written notice of the change in cir-
18 cumstances to all persons to whom the person
19 provided the certification.".
20 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-
21 MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.
22 1514) is amended—
23 (1) in subsection (b), by striking "and article
24 1904" and all that follows through "Free-Trade
25 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:

1 "(f) DENIAL OF PREFERENTIAL TARIFF TREAT-
2 MENT UNDER THE USMCA.—If U.S. Customs and Bor-
3 der Protection or U.S. Immigration and Customs Enforce-
4 ment of the Department of Homeland Security finds indi-
5 cations of a pattern of conduct by an importer, exporter,
6 or producer of false or unsupported representations that
7 goods qualify under the rules of origin provided for in sec-
8 tion 202 of the United States-Mexico-Canada Agreement
9 Implementation Act, U.S. Customs and Border Protec-
10 tion, in accordance with regulations prescribed by the Sec-
11 retary of the Treasury, may suspend preferential tariff
12 treatment under the USMCA (as defined in section 3 of
13 that Act) to entries of identical goods covered by subse-
14 quent representations by that importer, exporter, or pro-
15 ducer until U.S. Customs and Border Protection deter-
16 mines that representations of that person are in con-
17 formity with such section 202.".
18 (c) EFFECTIVE DATE.—
19 (1) IN GENERAL.—The amendments made by
20 subsections (a) and (b) shall—
21 (A) take effect on the date on which the
22 USMCA enters into force; and
23 (B) apply with respect to a good entered,
24 or exported from the United States, as the case
25 may be, on or after that date.

1 (2) TRANSITION FROM NAFTA TREATMENT.—In
2 the case of a good entered, or exported from the
3 United States, as the case may be, before the date
4 on which the USMCA enters into force—
5 (A) the amendments made by subsection
6 (a) to section 592 of the Tariff Act of 1930 (19
7 U.S.C. 1592) and the amendments made by
8 subsection (b) to section 514 of such Act (19
9 U.S.C. 1514) shall not apply with respect to the
10 good; and
11 (B) sections 592 and 514 of such Act, as
12 in effect on the day before that date, shall con-
13 tinue to apply on and after that date with re-
14 spect to the good.
15 (3) ENTERED DEFINED.—In this subsection,
16 the term "entered" includes a withdrawal from
17 warehouse for consumption.
18 **SEC. 205. RELIQUIDATION OF ENTRIES.**
19 (a) IN GENERAL.—Section 520(d) of the Tariff Act
20 of 1930 (19 U.S.C. 1520(d)) is amended—
21 (1) in the matter preceding paragraph (1)—
22 (A) by striking "section 202 of the North
23 American Free Trade Agreement Implementa-
24 tion Act,";

1 (B) by striking ", or section 203" and in-
2 serting ", section 203"; and
3 (C) by striking "for which" and inserting
4 ", or section 202 of the United States-Mexico-
5 Canada Agreement Implementation Act (except
6 with respect to any merchandise processing
7 fees), for which"; and
8 (2) by striking paragraph (2) and inserting the
9 following:
10 "(2) copies of all applicable certificates or cer-
11 tifications of origin; and".
12 (b) EFFECTIVE DATE.—
13 (1) IN GENERAL.—The amendments made by
14 subsection (a) shall—
15 (A) take effect on the date on which the
16 USMCA enters into force; and
17 (B) apply with respect to a good entered
18 for consumption, or withdrawn from warehouse
19 for consumption, on or after that date.
20 (2) TRANSITION FROM NAFTA TREATMENT.—In
21 the case of a good entered for consumption, or with-
22 drawn from warehouse for consumption, before the
23 date on which the USMCA enters into force—
24 (A) the amendments made by subsection
25 (a) to section 520(d) of the Tariff Act of 1930

1 (19 U.S.C. 1520(d)) shall not apply with re-
2 spect to the good; and
3 (B) section 520(d) of such Act, as in effect
4 on the day before that date, shall continue to
5 apply on and after that date with respect to the
6 good.

7 **SEC. 206. RECORDKEEPING REQUIREMENTS.**

8 (a) IN GENERAL.—Section 508 of the Tariff Act of
9 1930 (19 U.S.C. 1508) is amended—
10 (1) by striking subsection (b) and inserting the
11 following:
12 "(b) EXPORTS AND IMPORTS RELATING TO USMCA
13 COUNTRIES.—
14 "(1) DEFINITIONS.—In this subsection:
15 "(A) USMCA; USMCA COUNTRY.—The
16 terms 'USMCA' and 'USMCA country' have the
17 meanings given those terms in section 3 of the
18 United States-Mexico-Canada Agreement Im-
19 plementation Act.
20 "(B) USMCA CERTIFICATION OF ORI-
21 GIN.—The term 'USMCA certification of origin'
22 means the certification established under article
23 5.2.1 of the USMCA that a good qualifies as an
24 originating good under the USMCA.

1 "(2) EXPORTS TO USMCA COUNTRIES.—Any
2 person who completes a USMCA certification of ori-
3 gin or provides a written representation for a good
4 exported from the United States to a USMCA coun-
5 try shall make, keep, and, pursuant to rules and reg-
6 ulations prescribed by the Secretary of the Treasury,
7 render for examination and inspection, all records
8 and supporting documents related to the origin of
9 the good (including the certification or copies there-
10 of), including records related to—
11 "(A) the purchase, cost, value, and ship-
12 ping of, and payment for, the good;
13 "(B) the purchase, cost, value, and ship-
14 ping of, and payment for, all materials, includ-
15 ing indirect materials, used in the production of
16 the good; and
17 "(C) the production of the good in the
18 form in which it was exported or the production
19 of the material in the form in which it was sold.
20 "(3) EXPORTS UNDER THE CANADIAN AGREE-
21 MENT.—Any person who exports, or who knowingly
22 causes to be exported, any merchandise to Canada
23 during such time as the United States-Canada Free-
24 Trade Agreement is in force with respect to, and the
25 United States applies that Agreement to, Canada

1 shall make, keep, and render for examination and
2 inspection such records (including certifications of
3 origin or copies thereof) which pertain to the expor-
4 tations.

5 "(4) IMPORTS INTO THE UNITED STATES.—

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

14 "(i) records and supporting docu-
15 mentation related to the importation;

16 "(ii) all records and supporting docu-
17 ments related to the origin of the good (in-
18 cluding the certification or copies thereof),
19 if the importer completed the certification;
20 and

21 "(iii) records and supporting docu-
22 ments necessary to demonstrate that the
23 good did not, while in transit to the United
24 States, undergo further production or any
25 other operation other than unloading, re-

1 loading, or any other operation necessary
2 to preserve the good in good condition or
3 to transport the good to the United States.
4 "(B) VEHICLE PRODUCER.—Any vehicle
5 producer whose good is the subject of a claim
6 for preferential tariff treatment under the
7 USMCA shall make, keep, and, pursuant to
8 rules and regulations promulgated by the Sec-
9 retary of the Treasury and Secretary of Labor,
10 render for examination and inspection records
11 and supporting documents related to the labor
12 value content and steel and aluminum pur-
13 chasing requirements for the qualification of its
14 vehicles for preferential treatment.
15 "(5) RETENTION PERIOD.—
16 "(A) EXPORTS TO USMCA COUNTRIES.—A
17 person covered by paragraph (2) who completes
18 a USMCA certification of origin or provides a
19 written representation for a good exported from
20 the United States to a USMCA country shall
21 keep the records required by such paragraph re-
22 lating to that certification of origin for a period
23 of at least 5 years after the date on which the
24 certification is completed.

1 "(B) EXPORTS UNDER CANADIAN AGREE-
2 MENT.—The records required by paragraph (3)
3 shall be kept for such periods of time as the
4 Secretary shall prescribe, except that—
5 "(i) no period of time for the reten-
6 tion of the records may exceed 5 years
7 from the date of entry, filing of a reconcili-
8 ation, or exportation, as appropriate; and
9 "(ii) records for any drawback claim
10 shall be kept until the third anniversary of
11 the date of liquidation of the claim.
12 "(C) IMPORTS INTO THE UNITED
13 STATES.—
14 "(i) IN GENERAL.—An importer cov-
15 ered by paragraph (4)(A) shall keep the
16 records and supporting documents required
17 by such paragraph for a period of at least
18 5 years after the date of importation of the
19 good.
20 "(ii) VEHICLE PRODUCER.—A vehicle
21 producer covered by paragraph (4)(B)
22 shall keep the records and supporting doc-
23 uments required by paragraph (4)(B) for a
24 period of at least 5 years after the date of
25 filing the certifications required under

1 paragraphs (1) and (2) of section 202A(c)
2 of the United States-Mexico-Canada
3 Agreement Implementation Act.";
4 (2) by striking subsection (c); and
5 (3) in the paragraph heading for subsection
6 (e)(1), by striking "NAFTA" and inserting "USMCA".
7 (b) EFFECTIVE DATE.—
8 (1) IN GENERAL.—The amendments made by
9 subsection (a) shall take effect on the date on which
10 the USMCA enters into force.
11 (2) APPLICABILITY.—
12 (A) EXPORTS.—Paragraphs (2) and (5)(A)
13 of section 508(b) of the Tariff Act of 1930, as
14 amended by subsection (a), shall apply with re-
15 spect to a good exported from the United
16 States on or after the date on which the
17 USMCA enters into force.
18 (B) IMPORTS.—Paragraphs (4) and (5)(C)
19 of section 508(b) of the Tariff Act of 1930, as
20 amended by subsection (a), shall apply with re-
21 spect to a good that is entered for consumption,
22 or withdrawn from warehouse for consumption,
23 on or after the date on which the USMCA en-
24 ters into force.
25 (3) TRANSITION FROM NAFTA TREATMENT.—

1 (A) EXPORTS.—In the case of a good ex-
2 ported from the United States before the date
3 on which the USMCA enters into force—
4 (i) the amendments made by sub-
5 section (a) to paragraphs (2) and (5)(A) of
6 section 508(b) of the Tariff Act of 1930
7 (19 U.S.C. 1508) shall not apply with re-
8 spect to the good; and
9 (ii) section 508 of such Act, as in ef-
10 fect on the day before that date, shall con-
11 tinue to apply on and after that date with
12 respect to the good.
13 (B) IMPORTS.—In the case of a good that
14 is entered for consumption, or withdrawn from
15 warehouse for consumption, before the date on
16 which the USMCA enters into force, the
17 amendments made by subsection (a) to para-
18 graphs (4) and (5)(C) of section 508(b) of the
19 Tariff Act of 1930 (19 U.S.C. 1508) shall not
20 apply with respect to the good.
21 **SEC. 207. ACTIONS REGARDING VERIFICATION OF CLAIMS**
22 **UNDER THE USMCA.**
23 (a) VERIFICATION.—
24 (1) ORIGIN VERIFICATION.—

1 (A) IN GENERAL.—The Secretary of the
2 Treasury may, pursuant to article 5.9 of the
3 USMCA, conduct a verification of whether a
4 good is an originating good under section 202
5 or 202A.
6 (B) ADDITIONAL REQUIREMENTS.—If the
7 Secretary conducts a verification under sub-
8 paragraph (A), the President may direct the
9 Secretary—
10 (i) during the verification process, to
11 release the good only upon payment of du-
12 ties or provision of security; and
13 (ii) if the Secretary makes a negative
14 determination under subsection (b), to take
15 action under subsection (c).
16 (2) TEXTILE AND APPAREL GOODS.—
17 (A) IN GENERAL.—The Secretary of the
18 Treasury may, pursuant to article 6.6 of the
19 USMCA, conduct a verification described in
20 subparagraph (C) with respect to a textile or
21 apparel good.
22 (B) ADDITIONAL REQUIREMENTS.—If the
23 Secretary conducts a verification under sub-
24 paragraph (A) with respect to a textile or ap-

1 parel good, the President may direct the Sec-
2 retary—
3 (i) during the verification process, to
4 take appropriate action described in sub-
5 paragraph (D); and
6 (ii) if the Secretary makes a negative
7 determination described in subsection (b),
8 to take action under subsection (c).
9 (C) VERIFICATION DESCRIBED.—A
10 verification described in this subparagraph with
11 respect to a textile or apparel good is—
12 (i) a verification of whether the good
13 qualifies for preferential tariff treatment
14 under the USMCA; or
15 (ii) a verification of whether customs
16 offenses are occurring or have occurred
17 with respect to the good.
18 (D) ACTION DURING VERIFICATION.—Ap-
19 propriate action described in this subparagraph
20 may consist of—
21 (i) release of the textile or apparel
22 good that is the subject of a verification
23 described in subparagraph (C) upon pay-
24 ment of duties or provision of security;

1 (ii) suspension of preferential tariff
2 treatment under the USMCA with respect
3 to—
4 (I) the textile or apparel good
5 that is the subject of a verification de-
6 scribed in subparagraph (C)(i), if the
7 Secretary determines that there is in-
8 sufficient information to support the
9 claim for preferential tariff treatment;
10 or
11 (II) any textile or apparel good
12 exported or produced by a person that
13 is the subject of a verification de-
14 scribed in subparagraph (C)(ii) if the
15 Secretary of the Treasury determines
16 that there is insufficient information
17 to support the claim for preferential
18 tariff treatment made with respect to
19 that good;
20 (iii) denial of preferential tariff treat-
21 ment under the USMCA with respect to—
22 (I) the textile or apparel good
23 that is the subject of a verification de-
24 scribed in subparagraph (C)(i) if the
25 Secretary determines that incorrect

1 information has been provided to sup-
2 port the claim for preferential tariff
3 treatment; or
4 (II) any textile or apparel good
5 exported or produced by a person that
6 is the subject of a verification de-
7 scribed in subparagraph (C)(ii) if the
8 Secretary determines that the person
9 has provided incorrect information to
10 support the claim for preferential tar-
11 iff treatment that has been made with
12 respect to that good;
13 (iv) detention of any textile or apparel
14 good exported or produced by a person
15 that is the subject of a verification de-
16 scribed in subparagraph (C) if the Sec-
17 retary determines that there is insufficient
18 information to determine the country of or-
19 igin of that good; and
20 (v) denial of entry into the United
21 States of any textile or apparel good ex-
22 ported or produced by a person that is the
23 subject of a verification described in sub-
24 paragraph (C) if the Secretary determines
25 that the person has provided incorrect in-

1 formation regarding the country of origin
2 of that good.
3 (b) NEGATIVE DETERMINATION.—
4 (1) IN GENERAL.—A negative determination de-
5 scribed in this subsection with respect to a good im-
6 ported, exported, or produced by an importer, ex-
7 porter, or producer is a determination by the Sec-
8 retary, based on a verification conducted under sub-
9 section (a), that—
10 (A) a claim by the importer, exporter, or
11 producer that the good qualifies as an origi-
12 nating good under section 202 is inaccurate; or
13 (B) the good does not qualify for pref-
14 erential tariff treatment under the USMCA be-
15 cause—
16 (i) the importer, exporter, or producer
17 failed to respond to a written request for
18 information or failed to provide sufficient
19 information to determine that the good
20 qualifies as an originating good;
21 (ii) after receipt of a written notifica-
22 tion for a visit to conduct verification
23 under subsection (a), the exporter or pro-
24 ducer did not provide written consent for
25 that visit;

1 (iii) the importer, exporter, or pro-
2 ducer does not maintain, or denies access
3 to, records or documentation required
4 under section 508(l) of the Tariff Act of
5 1930 (19 U.S.C. 1508(l));
6 (iv) in the case of verification con-
7 ducted under subsection (a)(2)—
8 (I) access or permission for a site
9 visit is denied;
10 (II) officials of the United States
11 are prevented from completing a site
12 visit on the proposed date and the ex-
13 porter or producer does not provide
14 an acceptable alternative date for the
15 site visit; or
16 (III) the exporter or producer
17 does not provide access to relevant
18 documents or facilities during a site
19 visit; or
20 (v) the importer, exporter, or pro-
21 ducer—
22 (I) otherwise fails to comply with
23 the requirements of this section; or

1 (II) based on the preponderance
2 of the evidence, circumvents the re-
3 quirements of this section.
4 (2) REQUESTS FOR INFORMATION.—The Sec-
5 retary shall not make a negative determination de-
6 scribed in paragraph (1)(B) unless—
7 (A) in a case in which the Secretary con-
8 ducts a verification with respect to a good by
9 written request or questionnaire submitted to
10 the importer under article 5.9.1(a) of the
11 USMCA and the claim for preferential tariff
12 treatment under the USMCA is based on a cer-
13 tification of origin completed by the exporter or
14 producer of the good, the Secretary requests in-
15 formation from the exporter or producer that
16 completed the certification; or
17 (B) in a case in which the Secretary con-
18 ducts a verification with respect to a textile or
19 apparel good by requesting a site visit under ar-
20 ticle 6.6.2 of the USMCA, the Secretary re-
21 quests information from the importer and from
22 any exporter or producer that provided informa-
23 tion to the Secretary to support the claim for
24 preferential tariff treatment.
25 (c) ACTION BASED ON DETERMINATION.—

1 (1) DENIAL OF PREFERENTIAL TARIFF TREAT-
2 MENT.—Upon making a negative determination de-
3 scribed in subsection (b)(1) with respect to a good,
4 the Secretary may deny preferential tariff treatment
5 under the USMCA with respect to the good.
6 (2) WITHHOLDING OF PREFERENTIAL TARIFF
7 TREATMENT BASED ON PATTERN OF CONDUCT.—If
8 verifications of origin relating to identical goods in-
9 dicate a pattern of conduct by an importer, exporter,
10 or producer of false or unsupported representations
11 relevant to a claim that a good imported into the
12 United States qualifies for preferential tariff treat-
13 ment under the USMCA, U.S. Customs and Border
14 Protection, in accordance with regulations prescribed
15 by the Secretary, may withhold preferential tariff
16 treatment under the USMCA for entries of those
17 goods imported, exported, or produced by that per-
18 son until U.S. Customs and Border Protection deter-
19 mines that person has established compliance with
20 requirements for claims for preferential tariff treat-
21 ment under the USMCA.
22 (d) PREVENTION OF CIRCUMVENTION.—In making a
23 determination under this section, including whether to ac-
24 cept or reject a claim for preferential tariff treatment
25 under the USMCA, the Secretary shall interpret the re-

1 quirements of this section in a manner to avoid and pre-
2 vent circumvention of those requirements.

3 **SEC. 208. DRAWBACK [RESERVED].**

4 **SEC. 209. OTHER AMENDMENTS TO THE TARIFF ACT OF**
5 **1930.**

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

9 "(k) TREATMENT OF GOODS OF A USMCA COUN-
10 TRY.—In applying this section to an article that qualifies
11 as a good of a USMCA country (as defined in section 3
12 of the United States-Mexico-Canada Agreement Imple-
13 mentation Act)—

14 "(1) the exemption under subsection (a)(3)(H)
15 shall be applied by substituting 'reasonably know'
16 for 'necessarily know';

17 "(2) the Secretary shall exempt the good from
18 the requirements for marking under subsection (a) if
19 the good—

20 "(A) is an original work of art; or

21 "(B) is provided for under subheading
22 6904.10, heading 8541, or heading 8542 of the
23 Harmonized Tariff Schedule of the United
24 States; and

1 "(3) subsection (b) does not apply to the usual
2 container of any good described in subsection
3 (a)(3)(E) or (I) or paragraph (2)(A) or (B) of this
4 subsection.".
5 (b) EXAMINATION OF BOOKS AND WITNESSES.—Sec-
6 tion 509(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C.
7 1509(a)(2)(A)) is amended—
8 (1) in clause (i), by inserting at the end "or a
9 vehicle producer whose good is subject to a claim of
10 preferential tariff treatment under the USMCA (as
11 defined in section 3 of the United States-Mexico-
12 Canada Agreement Implementation Act),"; and
13 (2) in clause (ii), by striking "a NAFTA coun-
14 try" and all that follows through "Implementation
15 Act)" and inserting "a USMCA country (as defined
16 in section 3 of the United States-Mexico-Canada
17 Agreement Implementation Act)".
18 (c) EXCHANGE OF INFORMATION.—Section 628 of
19 the Tariff Act of 1930 (19 U.S.C. 1628) is amended by
20 striking subsection (c) and inserting the following:
21 "(c) GOVERNMENT AGENCY OF USMCA COUN-
22 TRY.—
23 "(1) IN GENERAL.—The Secretary may author-
24 ize 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—

1 (A) the amendments made by this section
2 shall not apply with respect to the good; and
3 (B) the provisions of law amended by this
4 section, as such provisions were in effect on the
5 day before that date, shall continue to apply on
6 and after that date with respect to the good.
7 (e) EFFECTIVE DATE RELATING TO EXCHANGE OF
8 INFORMATION.—Notwithstanding the amendment made
9 by subsection (c), the Secretary of the Treasury shall re-
10 tain the authority provided in section 628(c) of the Tariff
11 Act of 1930 (as in effect on the day before the date on
12 which the USMCA enters into force) to exchange informa-
13 tion with any government agency of a NAFTA country
14 (as defined in section 2 of the North American Free Trade
15 Agreement Implementation Act (as in effect on the day
16 before the date on which the USMCA enters into force)).
17 **SEC. 210. REGULATIONS.**
18 (a) SECRETARY OF THE TREASURY.—The Secretary
19 of the Treasury shall prescribe such regulations as may
20 be necessary to carry out this title and the amendments
21 made by this title (except as provided by subsection (b)).
22 (b) SECRETARY OF LABOR.—The Secretary of Labor
23 shall prescribe such regulations as may be necessary to
24 carry out the labor value content determination under sec-
25 tion 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.

1 (2) CARGO ORIGINATING IN MEXICO.—The term
2 "cargo originating in Mexico" means any cargo that
3 enters the United States by commercial motor vehi-
4 cle from Mexico, including cargo that may have
5 originated in a country other than Mexico.
6 (3) CHANGE IN CIRCUMSTANCES.—The term
7 "change in circumstance" may include a substantial
8 increase in services supplied by the grantee of a
9 grant of authority.
10 (4) COMMERCIAL MOTOR VEHICLE.—The term
11 "commercial motor vehicle" means a commercial
12 motor vehicle, as such term is defined in paragraph
13 (1) of section 31132 of title 49, United States Code,
14 that meets the requirements of subparagraph (A) of
15 such paragraph.
16 (5) CROSS-BORDER LONG-HAUL TRUCKING
17 SERVICES.—The term "cross-border long-haul truck-
18 ing services" means—
19 (A) the transportation by commercial
20 motor vehicle of cargo originating in Mexico to
21 a point in the United States outside of a border
22 commercial zone; or
23 (B) the transportation by commercial
24 motor vehicle of cargo originating in the United
25 States from a point in the United States out-

1 side of a border commercial zone to a point in
2 a border commercial zone or a point in Mexico.
3 (6) DRIVER.—The term "driver" means a per-
4 son that drives a commercial motor vehicle in cross-
5 border long-haul trucking services.
6 (7) GRANT OF AUTHORITY.—The term "grant
7 of authority" means registration granted pursuant
8 to section 13902 of title 49, United States Code, or
9 a successor provision, to persons of Mexico to con-
10 duct cross-border long-haul trucking services in the
11 United States.
12 (8) INTERESTED PARTY.—The term "interested
13 party" means—
14 (A) persons of the United States engaged
15 in the provision of cross-border long-haul truck-
16 ing services;
17 (B) a trade or business association, a ma-
18 jority of whose members are part of the rel-
19 evant United States long-haul trucking services
20 industry;
21 (C) a certified or recognized union, or rep-
22 resentative group of suppliers, operators, or
23 drivers who are part of the United States long-
24 haul trucking services industry;
25 (D) the Government of Mexico; or

1 (E) persons of Mexico.

2 (9) MATERIAL HARM.—The term "material
3 harm" means a significant loss in the share of the
4 United States market or relevant sub-market for
5 cross-border long-haul trucking services held by per-
6 sons of the United States.

7 (10) OPERATOR OR SUPPLIER.—The term "op-
8 erator" or "supplier" means an entity that has been
9 granted registration under section 13902 of title 49,
10 United States Code, to provide cross-border long-
11 haul trucking services.

12 (11) PERSONS OF MEXICO.—The term "persons
13 of Mexico" includes—

14 (A) entities domiciled in Mexico organized,
15 or otherwise constituted under Mexican law, in-
16 cluding subsidiaries of United States companies
17 domiciled in Mexico, or entities owned or con-
18 trolled by a Mexican national, which conduct
19 cross-border long-haul trucking services, or em-
20 ploy drivers who are non-United States nation-
21 als; and

22 (B) drivers who are Mexican nationals.

23 (12) PERSONS OF THE UNITED STATES.—The
24 term "persons of the United States" includes enti-
25 ties domiciled in the United States, organized or

1 otherwise constituted under United States law, and
2 not owned or controlled by persons of Mexico, which
3 provide cross-border long-haul trucking services and
4 long-haul commercial motor vehicle drivers who are
5 United States nationals.

6 (13) THREAT OF MATERIAL HARM.—The term
7 "threat of material harm" means material harm
8 that is likely to occur.

9 (14) UNITED STATES LONG-HAUL TRUCKING
10 SERVICES INDUSTRY.—The term "United States
11 long-haul trucking services industry" means—

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

15 (B) United States suppliers, operators, or
16 drivers providing cross-border long-haul truck-
17 ing services in a specific sub-market of the
18 whole United States market.

19 **SEC. 322. INVESTIGATIONS AND DETERMINATIONS BY COM-**
20 **MISSION.**

21 (a) INVESTIGATION.—Upon the filing of a petition by
22 an interested party described in subparagraph (A), (B),
23 or (C) of section 321(8) which is representative of a
24 United States long-haul trucking services industry, or at
25 the request of the President or the Trade Representative,

1 or upon the resolution of the Committee on Ways and
2 Means of the House of Representatives or the Committee
3 on Finance of the Senate, the International Trade Com-
4 mission (in this subtitle referred to as the "Commission")
5 shall promptly initiate an investigation to determine—

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

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

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

24 (b) TRANSMISSION OF PETITION, REQUEST, OR RES-
25 OLUTION.—The Commission shall transmit a copy of any

1 petition, request, or resolution filed under subsection (a)
2 to the Trade Representative and the Secretary of Trans-
3 portation.

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

6 (1) promptly publish notice of the commence-
7 ment of any investigation under subsection (a) in
8 the Federal Register; and

9 (2) within a reasonable time period thereafter,
10 hold public hearings at which the Commission shall
11 afford interested parties an opportunity to be
12 present, to present evidence, to respond to presen-
13 tations of other parties, and otherwise to be heard.

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

22 (1) consider, among other things, and as rel-
23 evant—

24 (A) the volume and tonnage of merchan-
25 dise transported; and

1 (B) the employment, wages, hours of serv-
2 ice, and working conditions; and
3 (2) with respect to a change in circumstances
4 described in subsection (a)(3), take into account
5 those operations by persons of Mexico under grants
6 of authority in effect as of the date of entry into
7 force of the USMCA are not causing material harm.
8 (e) ASSISTANCE TO COMMISSION.—
9 (1) IN GENERAL.—At the request of the Com-
10 mission, the Secretary of Homeland Security shall
11 consult with the Commission and shall collect and
12 maintain such additional data and other information
13 on commercial motor vehicles entering or exiting the
14 United States at a port of entry or exit at the
15 United States border with Mexico as the Commis-
16 sion may request for the purpose of conducting in-
17 vestigations under subsection (a) and shall make
18 such information available to the Commission in a
19 timely manner.
20 (2) REQUESTS FOR INFORMATION.—
21 (A) IN GENERAL.—At the request of the
22 Commission, the Secretary of Homeland Secu-
23 rity, the Secretary of Transportation, the Sec-
24 retary of Commerce, the Secretary of Labor,
25 and the head of any other Federal agency shall

1 make available to the Commission any informa-
2 tion in their possession, including proprietary
3 information, as the Commission may require in
4 order to assist the Commission in making deter-
5 minations under subsection (a).

6 (B) CONFIDENTIAL BUSINESS INFORMA-
7 TION.—The Commission shall treat any propri-
8 etary information obtained under subparagraph
9 (A) as confidential business information in ac-
10 cordance with regulations adopted by the Com-
11 mission to carry out this subtitle.

12 (f) LIMITED DISCLOSURE OF CONFIDENTIAL BUSI-
13 NESS INFORMATION UNDER PROTECTIVE ORDER.—The
14 Commission shall promulgate regulations to provide access
15 to confidential business information under protective order
16 to authorized representatives of interested parties who are
17 parties to an investigation under subsection (a).

18 (g) DEADLINE FOR DETERMINATION.—

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

1 (2) EXCEPTION.—If, before the 100th day after
2 an investigation is initiated under subsection (a), the
3 Commission determines that the investigation is ex-
4 traordinarily complicated, the Commission shall
5 make its determination with respect to the investiga-
6 tion not later than 150 days after the date referred
7 to in paragraph (1).
8 (h) APPLICABLE PROVISIONS.—For purposes of this
9 subtitle, the provisions of paragraphs (1), (2), and (3) of
10 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
11 1330(d)) shall be applied with respect to determinations
12 and findings made under this section as if such determina-
13 tions and findings were made under section 202 of the
14 Trade Act of 1974 (19 U.S.C. 2252).
15 **SEC. 323. COMMISSION RECOMMENDATIONS AND REPORT.**
16 (a) IN GENERAL.—If the Commission makes an af-
17 firmative determination under section 322, the Commis-
18 sion shall recommend the action that is necessary to ad-
19 dress the material harm or threat of material harm found.
20 (b) LIMITATION.—Only those members of the Com-
21 mission who agreed to the affirmative determination under
22 section 322 are eligible to vote on the recommendation re-
23 quired to be made under subsection (a).
24 (c) REPORT.—Not later than the date that is 60 days
25 after the date on which the determination is made under

1 section 322, the Commission shall submit to the President
2 a report that includes—
3 (1) the determination and an explanation of the
4 basis for the determination;
5 (2) if the determination is affirmative, rec-
6 ommendations for action and an explanation of the
7 basis for the recommendation; and
8 (3) any dissenting or separate views by mem-
9 bers of the Commission regarding the determination.
10 (d) PUBLIC NOTICE.—Upon submitting a report to
11 the President under subsection (c), the Commission
12 shall—
13 (1) promptly make public the report (with the
14 exception of information which the Commission de-
15 termines to be confidential business information);
16 and
17 (2) publish a summary of the report in the Fed-
18 eral Register.

19 **SEC. 324. ACTION BY PRESIDENT WITH RESPECT TO AF-**
20 **FIRMATIVE DETERMINATION.**

21 (a) IN GENERAL.—Not later than the date that is
22 30 days after the date on which the President receives a
23 report of the Commission in which the Commission's de-
24 termination under section 322 is affirmative or which con-
25 tains a determination that the President may treat as af-

1 firmative in accordance with section 330(d)(1) of the Tar-
2 iff Act of 1930 (19 U.S.C. 1330(d)(1))—
3 (1) the President shall, subject to subsection
4 (b), issue an order to the Secretary of Transpor-
5 tation specifying the relief to be provided, consistent
6 with subsection (c), and directing the relief to be
7 carried out; and
8 (2) the Secretary of Transportation shall carry
9 out such relief.
10 (b) EXCEPTION.—The President is not required to
11 provide relief under this section if the President deter-
12 mines that provision of such relief—
13 (1) is not in the national economic interest of
14 the United States; or
15 (2) would cause serious harm to the national
16 security of the United States.
17 (c) NATURE OF RELIEF.—
18 (1) IN GENERAL.—The relief the President is
19 authorized to provide under this subsection is as fol-
20 lows:
21 (A)(i) With respect to a determination re-
22 lating to an investigation under section
23 322(a)(1), the denial or imposition of limita-
24 tions on a request for a new grant of authority

1 by the persons of Mexico that are the subject
2 of the investigation.
3 (ii) With respect to a determination relat-
4 ing to an investigation under section 322(a)(1),
5 the revocation of, or restrictions on, grants of
6 authority issued to the persons of Mexico that
7 are the subject of the investigation since the
8 date of the petition, request, or resolution.
9 (B) With respect to a determination relat-
10 ing to an investigation under section 322(a)(2)
11 or (3), the revocation or imposition of limita-
12 tions on an existing grant of authority by the
13 persons of Mexico that are the subject of the in-
14 vestigation.
15 (C) With respect to a determination relat-
16 ing to an investigation under section 322(a)(1),
17 (2), or (3), a cap on the number of grants of
18 authority issued to persons of Mexico annually.
19 (2) DEADLINE FOR RELIEF.—Not later than 15
20 days after the date on which the President deter-
21 mines the relief to be provided under this subsection,
22 the President shall direct the Secretary of Transpor-
23 tation to carry out the relief.
24 (d) PERIOD OF RELIEF.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 any relief that the President provides under this sec-
3 tion may not be in effect for more than 2 years.
4 (2) EXTENSION.—
5 (A) IN GENERAL.—Subject to subpara-
6 graph (C), the President, after receiving a de-
7 termination from the Commission under sub-
8 paragraph (B) that is affirmative, or which con-
9 tains a determination that the President may
10 treat as affirmative in accordance with section
11 330(d)(1) of the Tariff Act of 1930 (19 U.S.C.
12 1330(d)(1)(1)), may extend the effective period
13 of relief provided under this section by up to an
14 additional 4 years, if the President determines
15 that the provision of the relief continues to be
16 necessary to remedy or prevent material harm.
17 (B) ACTION BY COMMISSION.—
18 (i) INVESTIGATION.—Upon request of
19 the President, or upon the filing by an in-
20 terested party described in subparagraph
21 (A), (B), or (C) of section 321(8) which is
22 representative of a United States long-haul
23 trucking services industry that is filed with
24 the Commission not earlier than the date
25 that is 270 days, and not later than the

1 date that is 240 days, before the date on
2 which any action taken under this section
3 is to terminate, the Commission shall con-
4 duct an investigation to determine whether
5 action under this section continues to be
6 necessary to remedy or prevent material
7 harm.

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

10 (I) publish notice of the com-
11 mencement of an investigation under
12 clause (i) in the Federal Register; and

13 (II) within a reasonable time
14 thereafter, hold a public hearing at
15 which the Commission shall afford in-
16 terested parties an opportunity to be
17 present, to present evidence, and to
18 respond to the presentations of other
19 parties and consumers, and otherwise
20 be heard.

21 (iii) REPORT.—Not later than the
22 date that is 60 days before relief provided
23 under subsection (a) is to terminate, or
24 such other date as determined by the
25 President, the Commission shall submit to

1 the President a report on its investigation
2 and determination under this subpara-
3 graph.
4 (C) PERIOD OF RELIEF.—Any relief pro-
5 vided under this section, including any exten-
6 sion thereof, may not, in the aggregate, be in
7 effect for more than 6 years.
8 (D) LIMITATION.—
9 (i) IN GENERAL.—Except as provided
10 in clause (ii), the Commission may not
11 conduct an investigation under subpara-
12 graph (B)(i) if—
13 (I) the subject matter of the in-
14 vestigation is the same as the subject
15 matter of a previous investigation con-
16 ducted under subparagraph (B)(i);
17 and
18 (II) less than 1 year has elapsed
19 since the Commission made its report
20 to the President of the results of such
21 previous investigation.
22 (ii) EXCEPTION.—Clause (i) shall not
23 apply with respect to an investigation if
24 the Commission determines good cause ex-
25 ists to conduct the investigation.

1 (e) REGULATIONS.—The Commission and the Sec-
2 retary of Transportation are authorized to promulgate
3 such rules and regulations as may be necessary to carry
4 out this subtitle.

5 **SEC. 325. CONFIDENTIAL BUSINESS INFORMATION.**

6 Section 202(a)(8) of the Trade Act of 1974 (19
7 U.S.C. 2252(a)(8)) is amended in the first sentence by
8 striking "and title III of the United States-Panama Trade
9 Promotion Agreement Implementation Act" and inserting
10 ", title III of the United States-Panama Trade Promotion
11 Agreement Implementation Act, and subtitle C of title III
12 of the United States-Mexico-Canada Agreement Imple-
13 mentation Act".

14 **SEC. 326. CONFORMING AMENDMENTS.**

15 (a) REGISTRATION OF MOTOR CARRIERS.—Section
16 13902 of title 49, United States Code, is amended by in-
17 serting at the end the following:

18 "(j) MEXICO-DOMICILED MOTOR CARRIERS.—Not-
19 withstanding any other provision of this section, upon an
20 order in accordance with section 324(a) of the United
21 States-Mexico-Canada Agreement Implementation Act,
22 the Secretary shall carry out the relief specified by denying
23 or imposing limitations on a request for registration or
24 capping the number of requests for registration by Mexico-
25 domiciled motor carriers of cargo to operate beyond the

1 municipalities along the United States-Mexico inter-
2 national border and the commercial zones of those munici-
3 palities as directed.".

4 (b) EFFECTIVE PERIODS OF REGISTRATION.—Sec-
5 tion 13905 of title 49, United States Code, is amended
6 by inserting at the end the following:

7 "(g) MEXICO-DOMICILED MOTOR CARRIERS.—Not-
8 withstanding any other provision of this section, upon an
9 order in accordance with section 324(a) of the United
10 States-Mexico-Canada Agreement Implementation Act,
11 the Secretary shall carry out the relief specified by revok-
12 ing or imposing limitations on existing registrations of
13 Mexico-domiciled motor carriers of cargo to operate be-
14 yond the municipalities along the United States-Mexico
15 international border and the commercial zones of those
16 municipalities as directed.".

17 **SEC. 327. SURVEY OF OPERATING AUTHORITIES.**

18 The Department of Transportation shall undertake
19 a survey of all existing grants of operating authority to,
20 and pending applications for operating authority from, all
21 Mexico-domiciled motor property carriers for operating be-
22 yond the Border Commercial Zones, including OP–1 (MX)
23 operating authority (Mexico-domiciled Carriers for Motor
24 Carrier Authority to Operate Beyond U.S. Municipalities
25 and Commercial Zones on the U.S.-Mexico Border) and

1 OP–1 operating authority (United States-based Enter-
2 prise Carrier of International Cargo Application for Motor
3 Property Carrier and Broker Authority). The Department
4 of Transportation shall prepare a report summarizing the
5 results of such survey not less than 180 days after the
6 date on which the USMCA enters into force, which it shall
7 deliver to the Office of the United States Trade Represent-
8 ative, the Commission, and the Chairs and Ranking Mem-
9 bers of the Committee on Transportation and Infrastruc-
10 ture of the House of Representatives, the Committee on
11 Commerce, Science, and Transportation of the Senate, the
12 Committee on Ways and Means of the House of Rep-
13 resentatives, and the Committee on Finance of the Senate.

14 TITLE IV—ANTIDUMPING AND 15 COUNTERVAILING DUTIES

16 Subtitle A—Preventing Duty 17 Evasion

18 SEC. 401. COOPERATION ON DUTY EVASION.

19 Section 414(b) of the Enforce and Protect Act of
20 2015 (19 U.S.C. 4374(b)) is amended—

21 (1) by inserting "or a party to the USMCA (as
22 defined in section 3 of the United States-Mexico-
23 Canada Agreement Implementation Act)" after
24 "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

1 the Agreement or article 10.12 of the
2 USMCA";
3 (3) in subsection (f)—
4 (A) in paragraph (6)(A), by striking "arti-
5 cle 1908 of the NAFTA" and inserting "article
6 10.16 of the USMCA";
7 (B) in paragraph (7)(A), by striking "arti-
8 cle 1908 of the NAFTA" and inserting "article
9 10.16 of the USMCA";
10 (C) by striking paragraph (8);
11 (D) by redesignating paragraphs (9) and
12 (10) as paragraphs (8) and (9), respectively;
13 (E) in paragraph (9), as redesignated by
14 subparagraph (D), by striking subparagraphs
15 (A) and (B) and inserting the following:
16 "(A) Canada for such time as the USMCA
17 is in force with respect to, and the United
18 States applies the USMCA to, Canada.
19 "(B) Mexico for such time as the USMCA
20 is in force with respect to, and the United
21 States applies the USMCA to, Mexico."; and
22 (F) by adding at the end the following:
23 "(10) USMCA.—The term 'USMCA' has the
24 meaning given that term in section 3 of the United

1 States-Mexico-Canada Agreement Implementation
2 Act.";
3 (4) in subsection (g)—
4 (A) in paragraph (2), in the matter pre-
5 ceding subparagraph (A), by striking "of the
6 NAFTA or of the Agreement" and inserting "of
7 the Agreement or article 10.12 of the
8 USMCA";
9 (B) in paragraph (3)(A)—
10 (i) in clause (i), by striking "of the
11 NAFTA or of the Agreement." and insert-
12 ing "of the Agreement or article 10.12 of
13 the USMCA;";
14 (ii) in clause (iii), by striking "the
15 NAFTA or of the Agreement" and insert-
16 ing "the Agreement or the USMCA";
17 (iii) in clause (v), by striking "para-
18 graph 12 of article 1905 of the NAFTA"
19 and inserting "article 10.13 of the
20 USMCA"; and
21 (iv) in clause (vi), by striking "para-
22 graph 12 of article 1905 of the NAFTA"
23 and inserting "article 10.13 of the
24 USMCA";

1 (C) in paragraph (4)(A), by striking "the
2 North American Free Trade Agreement" and
3 all that follows through "chapter 19 of the
4 Agreement" and inserting "the United States-
5 Canada Free-Trade Agreement Implementation
6 Act of 1988 implementing the binational panel
7 dispute settlement system under chapter 19 of
8 the Agreement, or the United States-Mexico-
9 Canada Agreement Implementation Act imple-
10 menting the binational panel dispute settlement
11 system under chapter 10 of the USMCA";
12 (D) in paragraph (5)—
13 (i) in subparagraph (A), by striking
14 "of the NAFTA or of the Agreement" and
15 inserting "of the Agreement or article
16 10.12 of the USMCA";
17 (ii) in subparagraph (B), by striking
18 "of the NAFTA or of the Agreement" and
19 inserting "of the Agreement or article
20 10.12 of the USMCA"; and
21 (iii) in subparagraph (C)—
22 (I) in clause (i), by striking "of
23 the NAFTA or of the Agreement"
24 and inserting "of the Agreement or
25 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)—

1 (aa) in the clause heading,
2 by striking "NAFTA" and insert-
3 ing "USMCA"; and
4 (bb) in the text, by striking
5 "paragraph 11(a) of article 1905
6 of the NAFTA" and inserting
7 "article 10.13 of the USMCA";
8 and
9 (ii) in subparagraph (C), by striking
10 "of the NAFTA or the Agreement" and in-
11 serting "of the Agreement or article 10.12
12 of the USMCA";
13 (H) in paragraph (9), by striking "of the
14 NAFTA or of the Agreement" and inserting "of
15 the Agreement or chapter 10 of the USMCA";
16 (I) in paragraph (10), by striking "the
17 NAFTA or the Agreement" and inserting "the
18 Agreement or under article 10.12 of the
19 USMCA";
20 (J) by striking paragraph (11) and insert-
21 ing the following:
22 "(11) SUSPENSION AND TERMINATION OF SUS-
23 PENSION OF ARTICLE 10.12 OF THE USMCA.—
24 "(A) SUSPENSION.—If a special committee
25 established under article 10.13 of the USMCA

1 issues an affirmative finding, the Trade Rep-
2 resentative may, in accordance with article
3 10.13 of the USMCA, suspend the operation of
4 article 10.12 of the USMCA.
5 "(B) TERMINATION OF SUSPENSION.—If a
6 special committee is reconvened and makes an
7 affirmative determination described in article
8 10.13 of the USMCA, any suspension of the op-
9 eration of article 10.12 of the USMCA shall
10 terminate."; and
11 (K) in paragraph (12)—
12 (i) in the paragraph heading, by strik-
13 ing "NAFTA" and inserting "USMCA";
14 (ii) by striking subparagraph (A) and
15 inserting the following:
16 "(A) NOTICE OF SUSPENSION OR TERMI-
17 NATION OF SUSPENSION OF ARTICLE 10.12 OF
18 THE USMCA.—
19 "(i) NOTICE OF SUSPENSION.—Upon
20 notification by the Trade Representative or
21 the government of a country described in
22 subparagraph (A) or (B) of subsection
23 (f)(9) that the operation of article 10.12 of
24 the USMCA has been suspended in accord-
25 ance with article 10.13 of the USMCA, the

1 United States Secretary shall publish in
2 the Federal Register a notice of suspension
3 of article 10.12 of the USMCA.
4 "(ii) NOTICE OF TERMINATION OF
5 SUSPENSION.—Upon notification by the
6 Trade Representative or the government of
7 a country described in subparagraph (A)
8 or (B) of subsection (f)(9) that the suspen-
9 sion of the operation of article 10.12 of the
10 USMCA is terminated in accordance with
11 article 10.13 of the USMCA, the United
12 States Secretary shall publish in the Fed-
13 eral Register a notice of termination of
14 suspension of article 10.12 of the
15 USMCA.";
16 (iii) in subparagraph (B)—
17 (I) in the subparagraph heading,
18 by striking "ARTICLE 1904" and in-
19 serting "ARTICLE 10.12 OF THE
20 USMCA"; and
21 (II) in the matter preceding
22 clause (i), by striking "If" and all
23 that follows through "NAFTA—" and
24 inserting the following: "If the oper-
25 ation of article 10.12 of the USMCA

1 is suspended in accordance with arti-
2 cle 10.13 of the USMCA—";
3 (iv) in subparagraph (C)—
4 (I) in clause (i)—
5 (aa) in the matter preceding
6 subclause (I), by striking "if the
7 United States" and all that fol-
8 lows through "NAFTA—" and
9 inserting the following: "if the
10 United States made an allegation
11 under article 10.13 of the
12 USMCA and the operation of ar-
13 ticle 10.12 of the USMCA was
14 suspended pursuant to article
15 10.13 of the USMCA—"; and
16 (bb) in subclause (I), by
17 striking "subsection (f)(10)(A) or
18 (B)" and inserting "subpara-
19 graph (A) or (B) of subsection
20 (f)(9)"; and
21 (II) in clause (ii), in the matter
22 preceding subclause (I), by striking
23 "if a country" and all that follows
24 through "NAFTA—" and inserting
25 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)—

1 (A) in subparagraph (A), by striking "arti-
2 cle 1904 of the NAFTA" and all that follows
3 through ", the administering authority" and in-
4 serting "article 1904 of the United States-Can-
5 ada Agreement or article 10.12 of the USMCA,
6 or an extraordinary challenge committee is con-
7 vened under Annex 1904.13 of the United
8 States-Canada Agreement or chapter 10 of the
9 USMCA, the administering authority"; and
10 (B) in subparagraph (B), by striking
11 "chapter 19 of the NAFTA or the Agreement"
12 each place it appears and inserting "chapter 19
13 of the Agreement or chapter 10 of the
14 USMCA";
15 (3) in paragraph (3), by striking "the NAFTA
16 or the United States-Canada Agreement" and in-
17 serting "article 1904 of the United States-Canada
18 Agreement or article 10.12 of the USMCA";
19 (4) in paragraph (4), by striking "section
20 402(b) of the North American Free Trade Agree-
21 ment Implementation Act" and inserting "section
22 412(b) of the United States-Mexico-Canada Agree-
23 ment Implementation Act"; and
24 (5) by striking "section 516A(f)(10)" each
25 place it appears and inserting "section 516A(f)(9)".

1 (b) DEFINITION.—Section 771 of the Tariff Act of
2 1930 (19 U.S.C. 1677) is amended by striking paragraph
3 (22) and inserting the following:
4 "(22) USMCA.—The term 'USMCA' has the
5 meaning given that term in section 3 of the United
6 States-Mexico-Canada Agreement Implementation
7 Act.".

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

10 (a) COURT OF INTERNATIONAL TRADE.—Chapter 95
11 of title 28, United States Code, is amended—
12 (1) in section 1581(i)—
13 (A) by redesignating paragraphs (1)
14 through (4) as subparagraphs (A) through (D),
15 respectively;
16 (B) by inserting "(1)" after "(i)";
17 (C) in subparagraph (D), as redesignated
18 by subparagraph (A), by striking "paragraphs
19 (1)–(3) of this subsection" and inserting "sub-
20 paragraphs (A) through (C) of this paragraph";
21 and
22 (D) by striking the flush text and inserting
23 the following:

1 "(2) This subsection shall not confer jurisdiction over
2 an antidumping or countervailing duty determination
3 which is reviewable by—
4 "(A) the Court of International Trade under
5 section 516A(a) of the Tariff Act of 1930 (19
6 U.S.C. 1516a(a)); or
7 "(B) a binational panel under section 516A(g)
8 of the Tariff Act of 1930 (19 U.S.C. 1516a(g)).";
9 (2) in section 1584, by striking the section
10 heading and inserting the following:
11 **"§ 1584. Civil actions under the United States-Canada**
12 **Free-Trade Agreement or the USMCA";**
13 and
14 (3) in the table of sections at the beginning of
15 the chapter, by striking the item relating to section
16 1584 and inserting the following:

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

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

1 **Subtitle D—General Provisions**

2 **SEC. 431. EFFECT OF TERMINATION OF USMCA COUNTRY**
3 **STATUS.**

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

9 (b) TRANSITION PROVISIONS.—

10 (1) PROCEEDINGS REGARDING PROTECTIVE OR-
11 DERS AND UNDERTAKINGS.—If on the date on which
12 a country ceases to be a USMCA country an inves-
13 tigation or enforcement proceeding concerning the
14 violation of a protective order issued under section
15 777(f) of the Tariff Act of 1930 (as amended by
16 this title) or an undertaking of the government of
17 that country is pending, the investigation or pro-
18 ceeding shall continue, and sanctions may continue
19 to be imposed, in accordance with the provisions of
20 such section 777(f) (as so amended).

21 (2) BINATIONAL PANEL AND EXTRAORDINARY
22 CHALLENGE COMMITTEE REVIEWS.—If on the date
23 on which a country ceases to be a USMCA coun-
24 try—

1 (A) a binational panel review under article
2 10.12 of the USMCA is pending, or has been
3 requested, or
4 (B) an extraordinary challenge committee
5 review under that article is pending, or has
6 been requested,
7 with respect to a determination which involves a
8 class or kind of merchandise and to which subsection
9 (g)(2) of section 516A of the Tariff Act of 1930 (19
10 U.S.C. 1516a) applies, such determination shall be
11 reviewable under subsection (a) of that section. In
12 the case of a determination to which the provisions
13 of this paragraph apply, the time limits for com-
14 mencing an action under 516A(a) of the Tariff Act
15 of 1930 shall not begin to run until the date on
16 which the USMCA ceases to be in force with respect
17 to that country.

18 **SEC. 432. EFFECTIVE DATE.**

19 The provisions of this title and the amendments made
20 by this title shall take effect on the date on which the
21 USMCA enters into force, but shall not apply—
22 (1) to any final determination described in
23 paragraph (1)(B) or clause (i), (ii), or (iii) of para-
24 graph (2)(B) of section 516A(a) of the Tariff Act of
25 1930 (19 U.S.C. 1516a(a)) notice of which is pub-

lished 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—

1 (A) by striking "NAFTA country" each
2 place it appears and inserting "USMCA coun-
3 try";
4 (B) in the subsection heading, by striking
5 "NAFTA" and inserting "USMCA";
6 (C) in the matter preceding paragraph
7 (1)—
8 (i) by striking "and the amendments
9 made by subsection (b)"; and
10 (ii) by striking "NAFTA drawback"
11 and inserting "USMCA drawback";
12 (D) in paragraph (2)—
13 (i) in subparagraph (A), by inserting
14 "sorting, marking," after "repacking,";
15 and
16 (ii) in subparagraph (B), by striking
17 "paragraph 12 of section A of Annex
18 703.2 of the Agreement" and inserting
19 "paragraph 11 of Annex 3–B of the
20 USMCA"; and
21 (E) by amending paragraph (6) to read as
22 follows:
23 "(6) A good provided for in subheading
24 1701.13.20 or 1701.14.20 of the HTS that is im-

1 ported under any re-export program or any like pro-
2 gram and that is—
3 "(A) used as a material, or
4 "(B) substituted for by a good of the same
5 kind and quality that is used as a material,
6 in the production of a good provided for in existing
7 Canadian tariff item 1701.99.00 or existing Mexican
8 tariff item 1701.99.01, 1701.99.02, or 1701.99.99
9 (relating to refined sugar).".
10 (c) SAME KIND AND QUALITY.—Section 208 of this
11 Act, as amended by subsection (b), is further amended by
12 adding at the end the following:
13 "(b) SAME KIND AND QUALITY.—For purposes of
14 paragraphs (3)(A)(iii), (5)(C), (6)(B), and (8) of sub-
15 section (a), and for purposes of obtaining refunds, waivers,
16 or reductions of customs duties with respect to a good sub-
17 ject to USMCA drawback under section 313(n)(2) of the
18 Tariff Act of 1930 (19 U.S.C. 1313(n)(2)), a good is a
19 good of the same kind and quality as another good—
20 "(1) for a good described in such paragraph
21 (6)(B), if the good would have been considered of
22 the same kind and quality as the other good on the
23 day before the date on which the USMCA enters
24 into force; or
25 "(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—

1 (A) by striking "NAFTA" each place it
2 appears;
3 (B) by striking "section 203(a) of the
4 North American Free Trade Agreement Imple-
5 mentation Act" and inserting "section 208(a)
6 of the United States-Mexico-Canada Agreement
7 Implementation Act"; and
8 (C) by striking "section 2(4) of that Act"
9 and inserting "section 3 of that Act".
10 (2) BONDED SMELTING AND REFINING WARE-
11 HOUSES.—Section 312 of the Tariff Act of 1930 (19
12 U.S.C. 1312) is amended, in subsections (b) and
13 (d)—
14 (A) by striking "NAFTA" each place it
15 appears and inserting "USMCA";
16 (B) by striking "section 2(4) of the North
17 American Free Trade Agreement Implementa-
18 tion Act" each place it appears and inserting
19 "section 3 of the United States-Mexico-Canada
20 Agreement Implementation Act"; and
21 (C) by striking "section 203(a) of that
22 Act" each place it appears and inserting "sec-
23 tion 208(a) of that Act".

1 (3) DRAWBACK AND REFUNDS.—Section 313 of
2 the Tariff Act of 1930 (19 U.S.C. 1313) is amend-
3 ed—
4 (A) in subsection (j)(4), by striking sub-
5 paragraph (A) and inserting the following:
6 "(A)(i) Effective upon the entry into force of
7 the USMCA, the exportation to a USMCA country
8 of merchandise that is fungible with and substituted
9 for imported merchandise, other than merchandise
10 described in paragraphs (1) through (8) of section
11 208(a) of the United States-Mexico-Canada Agree-
12 ment Implementation Act, shall not constitute an ex-
13 portation for purposes of paragraph (2).
14 "(ii) In this subparagraph, the terms 'USMCA'
15 and 'USMCA country' have the meanings given
16 those terms in section 3 of the United States-Mex-
17 ico-Canada Agreement Implementation Act.";
18 (B) in subsection (n)—
19 (i) in paragraph (1), by striking sub-
20 paragraphs (A) and (B) and inserting the
21 following:
22 "(A) the term 'USMCA country' has the mean-
23 ing given that term in section 3 of the United
24 States-Mexico-Canada Agreement Implementation
25 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;"; and

(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

1 (ii) by striking "NAFTA" each place
2 it appears and inserting "USMCA"; and
3 (C) in paragraphs (3) and (4), by striking
4 "NAFTA" each place it appears and inserting
5 "USMCA".
6 (5) FOREIGN TRADE ZONES.—Section 3(a)(2)
7 of the Act of June 18, 1934 (commonly known as
8 the "Foreign Trade Zones Act") (19 U.S.C.
9 81c(a)(2)) is amended, in the flush text—
10 (A) by striking "goods subject to NAFTA
11 drawback, as defined in section 203(a) of the
12 North American Free Trade Agreement Imple-
13 mentation Act" and inserting "goods subject to
14 USMCA drawback, as defined in section 208(a)
15 of the United States-Mexico-Canada Agreement
16 Implementation Act";
17 (B) by striking "a NAFTA country, as de-
18 fined in section 2(4) of that Act" and inserting
19 "a USMCA country, as defined in section 3 of
20 that Act"; and
21 (C) by striking "NAFTA" each place it
22 appears and inserting "USMCA".
23 (f) ADDITIONAL CLERICAL AMENDMENT.—The table
24 of contents for this Act is amended by striking the item
25 relating to section 208 and inserting the following:

"Sec. 208. Drawback.".

1 (g) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Each transfer, redesigna-
3 tion, and amendment made by subsections (b)
4 through (e) shall—

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

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

10 (2) TRANSITION FROM NAFTA TREATMENT.—In
11 the case of a good entered, or withdrawn from ware-
12 house for consumption, before the date on which the
13 USMCA enters into force—

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

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

21 **SEC. 502. RELIEF FROM INJURY CAUSED BY IMPORT COM-**
22 **PETITION.**

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

1 (b) ARTICLE IMPACT IN IMPORT RELIEF CASES.—
2 Section 311 of the North American Free Trade Agreement
3 Implementation Act (19 U.S.C. 3371) is—
4 (1) transferred to subtitle A of title III of this
5 Act;
6 (2) inserted after the heading (as amended by
7 subsection (a)) of such subtitle;
8 (3) redesignated as section 301; and
9 (4) amended—
10 (A) in the section heading, by striking
11 "**NAFTA**" and inserting "**USMCA**";
12 (B) in subsection (c), by striking "section
13 312(a)" and inserting "section 302(a)"; and
14 (C) by striking "NAFTA" each place it
15 appears and inserting "USMCA".
16 (c) PRESIDENTIAL ACTION REGARDING IMPORTS.—
17 Section 312 of the North American Free Trade Agreement
18 Implementation Act (19 U.S.C. 3372) is—
19 (1) transferred to subtitle A of title III of this
20 Act;
21 (2) inserted after section 301 (as inserted and
22 redesignated by subsection (b));
23 (3) redesignated as section 302; and
24 (4) amended—

1 (A) in the section heading, by striking
2 "**NAFTA**" and inserting "**USMCA**";
3 (B) in subsection (b), in the subsection
4 heading, by striking "NAFTA" and inserting
5 "USMCA";
6 (C) in subsection (c), in the subsection
7 heading, by striking "NAFTA" and inserting
8 "USMCA"; and
9 (D) by striking "NAFTA" each place it
10 appears and inserting "USMCA".
11 (d) ADDITIONAL CLERICAL AMENDMENTS.—The
12 table of contents for this Act is amended by striking the
13 item relating to subtitle A of title III and inserting the
14 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.".

15 (e) EFFECTIVE DATE.—
16 (1) IN GENERAL.—Each transfer, redesigna-
17 tion, and amendment made by this section shall—
18 (A) take effect on the date on which the
19 USMCA enters into force; and
20 (B) apply with respect to an investigation
21 under chapter 1 of title II of the Trade Act of
22 1974 (19 U.S.C. 2251 et seq.) initiated on or
23 after that date.

1 (2) TRANSITION FROM NAFTA.—In the case of
2 an investigation under chapter 1 of title II of the
3 Trade Act of 1974 initiated before the date on which
4 the USMCA enters into force—
5 (A) the transfers, redesignations, and
6 amendments made by this section shall not
7 apply with respect to the investigation; and
8 (B) sections 311 and 312 of the North
9 American Free Trade Agreement Implementa-
10 tion Act (19 U.S.C. 3371 and 3372), as in ef-
11 fect on the day before that date, shall continue
12 to apply on and after that date with respect to
13 the investigation.

14 **SEC. 503. TEMPORARY ENTRY.**

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

18 (b) NONIMMIGRANT TRADERS AND INVESTORS.—
19 Section 341 of the North American Free Trade Agreement
20 Implementation Act (Public Law 103–182; 107 Stat.
21 2116) is—
22 (1) transferred to subtitle B of title III of this
23 Act;
24 (2) inserted after the heading (as amended by
25 subsection (a)) of such subtitle;

1 (3) redesignated as section 311; and
2 (4) amended—
3 (A) by striking subsections (b) and (c);
4 (B) by striking "(a)" and all that follows
5 through "Upon" and inserting "Upon";
6 (C) by striking "the Agreement" each
7 place it appears and inserting "the USMCA";
8 (D) by striking "Annex 1603" and insert-
9 ing "Annex 16–A"; and
10 (E) by striking "Annex 1608" and insert-
11 ing "article 16.1".
12 (c) NONIMMIGRANT PROFESSIONALS.—Section 214
13 of the Immigration and Nationality Act (8 U.S.C. 1184)
14 is amended—
15 (1) in subsection (e)—
16 (A) by striking paragraphs (1), (3), (4),
17 and (5);
18 (B) by redesignating paragraphs (2) and
19 (6) as paragraphs (1) and (2), respectively; and
20 (C) in paragraph (1), as redesignated by
21 subparagraph (B)—
22 (i) by striking "Annex 1603 of the
23 North American Free Trade Agreement (in
24 this subsection referred to as 'NAFTA')"
25 and inserting "Annex 16–A of the USMCA

1 (as defined in section 3 of the United
2 States-Mexico-Canada Agreement Imple-
3 mentation Act)"; and
4 (ii) by striking the third and fourth
5 sentences and inserting the following: "For
6 purposes of this paragraph, the term 'cit-
7 izen of Mexico' means 'citizen' as defined
8 in article 16.1 of the USMCA."; and
9 (2) in subsection (j)(1)—
10 (A) in the first sentence, by striking
11 "Annex 1603 of the North American Free
12 Trade Agreement" and inserting "Annex 16–A
13 of the USMCA (as defined in section 3 of the
14 United States-Mexico-Canada Agreement Im-
15 plementation Act)";
16 (B) in the second sentence, by striking
17 "article 1603 of such Agreement" and inserting
18 "article 16.4 of the USMCA"; and
19 (C) in the third sentence, by striking
20 "Annex 1608 of such Agreement" and inserting
21 "article 16.1 of the USMCA".
22 (d) CONFORMING AMENDMENTS.—
23 (1) INTEGRATED ENTRY AND EXIT DATA SYS-
24 TEM.—Section 110(c)(1)(B) of the Illegal Immigra-
25 tion 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.

1 (2) TRANSITION FROM NAFTA.—In the case of
2 a visa issued before the date on which the USMCA
3 enters into force—
4 (A) the transfers, redesignations, and
5 amendments made by this section shall not
6 apply with respect to the visa; and
7 (B) the provisions of law amended by sub-
8 sections (b) through (d), as such provisions
9 were in effect on the day before that date, shall
10 continue to apply on and after that date with
11 respect to the visa.

12 **SEC. 504. DISPUTE SETTLEMENT IN ANTIDUMPING AND**
13 **COUNTERVAILING DUTY CASES.**

14 (a) CLERICAL AMENDMENT.—Subtitle B of title IV
15 of this Act is amended in the subtitle heading by striking
16 "**[reserved]**".

17 (b) REFERENCES IN SUBTITLE.—Section 401 of the
18 North American Free Trade Agreement Implementation
19 Act (19 U.S.C. 3431) is—
20 (1) transferred to subtitle B of title IV of this
21 Act and inserted after the heading (as amended by
22 subsection (a)) of such subtitle;
23 (2) redesignated as section 411; and
24 (3) amended by striking "the Agreement" and
25 inserting "the USMCA".

1 (c) ORGANIZATIONAL AND ADMINISTRATIVE PROVI-
2 SIONS.—Section 402 of the North American Free Trade
3 Agreement Implementation Act (19 U.S.C. 3432) is—
4 (1) transferred to subtitle B of title IV of this
5 Act and inserted after section 411 (as inserted and
6 redesignated by subsection (b));
7 (2) redesignated as section 412; and
8 (3) amended—
9 (A) in subsection (a)—
10 (i) in paragraph (1)—
11 (I) in subparagraph (D), by
12 striking "in paragraph 1" and all that
13 follows and inserting "in paragraph 1
14 of Annex 10–B.1 and paragraph 1 of
15 Annex 10–B.3; and";
16 (II) in subparagraph (E), by
17 striking "chapter 19" and inserting
18 "chapter 10"; and
19 (III) in the matter following sub-
20 paragraph (E), by striking "in para-
21 graph 1" and all that follows through
22 "Annex 1904.13" and inserting "in
23 paragraph 1 of Annex 10–B.1 and
24 paragraph 1 of Annex 10–B.3"; and
25 (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

1 (II) by striking "article 1905"
2 and inserting "article 10.13";
3 (ii) in paragraph (2)(B)—
4 (I) by striking "chapter 19" each
5 place it appears and inserting "chap-
6 ter 10"; and
7 (II) in clause (i)(II), by striking
8 "article 1905" and inserting "article
9 10.13";
10 (iii) in paragraph (3)—
11 (I) in subparagraph (A)(i), by
12 striking "Annex 1901.2" and insert-
13 ing "Annex 10–B.1";
14 (II) in subparagraph (A)(ii), by
15 striking "under Annex 1904.13" and
16 all that follows and inserting "under
17 Annex 10–B.3 and special committees
18 under article 10.13."; and
19 (III) in subparagraph (B)(i), by
20 striking "chapter 19" and inserting
21 "chapter 10"; and
22 (iv) in paragraph (4)—
23 (I) in subparagraph (A), by strik-
24 ing "chapter 19" and inserting "chap-
25 ter 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

1 (bb) by striking "the Agree-
2 ment" and inserting "the
3 USMCA";
4 (III) in subparagraph (A)(iii), by
5 striking "NAFTA" and inserting
6 "USMCA";
7 (IV) in subparagraph (B)(i), by
8 striking "in paragraph 1" and all that
9 follows and inserting "in paragraph 1
10 of Annex 10–B.1 and paragraph 1 of
11 Annex 10–B.3; or"; and
12 (V) in subparagraph (B)(ii), by
13 striking "chapter 19" and inserting
14 "chapter 10"; and
15 (iii) in paragraph (3)—
16 (I) in subparagraph (A), by strik-
17 ing "in paragraph 1" and all that fol-
18 lows through "during" and inserting
19 "in paragraph 1 of Annex 10–B.1 and
20 paragraph 1 of Annex 10–B.3 dur-
21 ing"; and
22 (II) in subparagraph (B), by
23 striking "chapter 19" and inserting
24 "chapter 10";

1 (E) in subsection (e), in the matter pre-
2 ceding paragraph (1)—
3 (i) by striking "the Agreement" and
4 inserting "the USMCA";
5 (ii) by striking "between the United
6 States" and all that follows through
7 "NAFTA country"; and
8 (iii) by striking "January 3, 1994"
9 and inserting "January 3, 2020";
10 (F) in subsection (f), by striking "chapter
11 19" and inserting "chapter 10";
12 (G) in subsection (g), by striking "chapter
13 19" and inserting "chapter 10"; and
14 (H) in subsection (h), by striking "chapter
15 19" and inserting "chapter 10".
16 (d) TESTIMONY AND PRODUCTION OF PAPERS.—Sec-
17 tion 403 of the North American Free Trade Agreement
18 Implementation Act (19 U.S.C. 3433) is—
19 (1) transferred to subtitle B of title IV of this
20 Act and inserted after section 412 (as inserted and
21 redesignated by subsection (c));
22 (2) redesignated as section 413; and
23 (3) amended in subsection (a), in the matter
24 preceding paragraph (1), by striking "under para-
25 graph 13" and all that follows through "the com-

1 mittee—" and inserting "under paragraph 13 of ar-
2 ticle 10.12, and the allegations before the committee
3 include a matter referred to in paragraph 13(a)(i) of
4 article 10.12, for the purposes of carrying out its
5 functions and duties under Annex 10–B.3, the com-
6 mittee—".
7 (e) REQUESTS FOR REVIEW OF DETERMINATIONS.—
8 Section 404 of the North American Free Trade Agreement
9 Implementation Act (19 U.S.C. 3434) is—
10 (1) transferred to subtitle B of title IV of this
11 Act and inserted after section 413 (as inserted and
12 redesignated by subsection (d));
13 (2) redesignated as section 414; and
14 (3) amended—
15 (A) in the section heading, by striking "**OF**
16 **NAFTA COUNTRIES**";
17 (B) in subsection (a)—
18 (i) in paragraph (1), by striking "arti-
19 cle 1911" and all that follows and insert-
20 ing "article 10.8, of a USMCA country.";
21 and
22 (ii) in paragraph (2), by striking "ar-
23 ticle 1908" and inserting "article 10.16";
24 (C) in subsection (b), by striking "article
25 1904" and inserting "article 10.12"; and

1 (D) in subsection (c), by striking "article
2 1904" each place it appears and inserting "ar-
3 ticle 10.12".
4 (f) RULES OF PROCEDURE FOR PANELS AND COM-
5 MITTEES.—Section 405 of the North American Free
6 Trade Agreement Implementation Act (19 U.S.C. 3435)
7 is—
8 (1) transferred to subtitle B of title IV of this
9 Act and inserted after section 414 (as inserted and
10 redesignated by subsection (e));
11 (2) redesignated as section 415; and
12 (3) amended—
13 (A) in subsection (a), in the matter pre-
14 ceding paragraph (1), by striking "article
15 1904" and inserting "article 10.12";
16 (B) in subsection (b), by striking "Annex
17 1904.13" and inserting "Annex 10–B.3"; and
18 (C) in subsection (c), by striking "Annex
19 1905.6" and inserting "Annex 10–B.4".
20 (g) SUBSIDY NEGOTIATIONS.—Section 406 of the
21 North American Free Trade Agreement Implementation
22 Act (19 U.S.C. 3436) is—
23 (1) transferred to subtitle B of title IV of this
24 Act and inserted after section 415 (as inserted and
25 redesignated by subsection (f));

1 (2) redesignated as section 416; and
2 (3) amended, in the matter preceding para-
3 graph (1), by striking "NAFTA country" and in-
4 serting "USMCA country".
5 (h) IDENTIFICATION OF INDUSTRIES FACING SUB-
6 SIDIZED IMPORTS.—Section 407 of the North American
7 Free Trade Agreement Implementation Act (19 U.S.C.
8 3437) is—
9 (1) transferred to subtitle B of title IV of this
10 Act and inserted after section 416 (as inserted and
11 redesignated by subsection (g));
12 (2) redesignated as section 417; and
13 (3) amended—
14 (A) in subsection (a)(1)(A)—
15 (i) by striking "the Agreement" and
16 inserting "the USMCA"; and
17 (ii) by striking "NAFTA country"
18 and inserting "USMCA country";
19 (B) in subsection (c), in the matter fol-
20 lowing paragraph (3), by striking "NAFTA
21 countries" and inserting "USMCA countries";
22 and
23 (C) in subsection (d)(3), by striking "the
24 Agreement" and inserting "the USMCA".

1 (i) TREATMENT OF AMENDMENTS TO LAW.—Section
2 408 of the North American Free Trade Agreement Imple-
3 mentation Act (19 U.S.C. 3438) is—
4 (1) transferred to subtitle B of title IV of this
5 Act and inserted after section 417 (as inserted and
6 redesignated by subsection (h));
7 (2) redesignated as section 418; and
8 (3) amended—
9 (A) in the matter preceding paragraph (1),
10 by striking "the Agreement" and all that fol-
11 lows through "United States" and inserting
12 "the USMCA"; and
13 (B) in the flush text, by striking "NAFTA
14 country" and inserting "USMCA country".
15 (j) ADDITIONAL CLERICAL AMENDMENTS.—The
16 table of contents for this Act is amended by striking the
17 item relating to subtitle B of title IV and inserting the
18 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.".

19 (k) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Each transfer, redesigna-
2 tion, and amendment made by this section shall take
3 effect on the date on which the USMCA enters into
4 force, but shall not apply—
5 (A) to any final determination described in
6 paragraph (1)(B) or clause (i), (ii), or (iii) of
7 paragraph (2)(B) of section 516A(a) of the
8 Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice
9 of which is published in the Federal Register
10 before such date, or to a determination de-
11 scribed in paragraph (2)(B)(vi) of that section
12 notice of which is received by the Government
13 of Canada or Mexico before such date; and
14 (B) to any binational panel review under
15 NAFTA, or any extraordinary challenge arising
16 out of any such review, that was commenced be-
17 fore such date.
18 (2) TRANSITION FROM NAFTA.—The transfers,
19 redesignations, and amendments made by this sec-
20 tion shall not apply, and the provisions of title IV
21 of the North American Free Trade Agreement Im-
22 plementation Act, as in effect on the day before the
23 date on which the USMCA enters into force, shall
24 continue to apply on and after that date with re-
25 spect—

1 (A) to any final determination described in
2 paragraph (1)(B) or clause (i), (ii), or (iii) of
3 paragraph (2)(B) of section 516A(a) of the
4 Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice
5 of which is published in the Federal Register
6 before such date, or to a determination de-
7 scribed in paragraph (2)(B)(vi) of that section
8 notice of which is received by the Government
9 of Canada or Mexico before the date on which
10 the USMCA enters into force; and
11 (B) to any binational panel review under
12 NAFTA, or any extraordinary challenge arising
13 out of any such review, that was commenced be-
14 fore the date on which the USMCA enters into
15 force.

16 **SEC. 505. GOVERNMENT PROCUREMENT.**

17 (a) GENERAL AUTHORITY TO MODIFY DISCRIMINA-
18 TORY PURCHASING REQUIREMENTS.—Section 301 of the
19 Trade Agreements Act of 1979 (19 U.S.C. 2511) is
20 amended—
21 (1) in subsection (b)(1), by striking "the North
22 American Free Trade Agreement" and inserting
23 "the USMCA (as defined in section 3 of the United
24 States-Mexico-Canada Agreement Implementation
25 Act)"; and

1 (2) in subsection (e)—

2 (A) by striking "Annex 1001.1a–2 of the
3 North American Free Trade Agreement" and
4 inserting "Annex 13–A of the USMCA (as de-
5 fined in section 3 of the United States-Mexico-
6 Canada Agreement Implementation Act)"; and

7 (B) by striking "chapter 10 of such Agree-
8 ment" and inserting "chapter 13 of the
9 USMCA".

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

13 (1) by striking "a party to the North American
14 Free Trade Agreement," and inserting "Mexico, as
15 a party to the USMCA (as defined in section 3 of
16 the United States-Mexico-Canada Agreement Imple-
17 mentation Act),"; and

18 (2) by striking "the North American Free
19 Trade Agreement for" and inserting "the USMCA
20 for".

21 (c) EFFECTIVE DATE.—

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

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

1 (B) apply with respect to a procurement
2 on or after that date.
3 (2) TRANSITION FROM NAFTA TREATMENT.—In
4 the case of a procurement before the date on which
5 the USMCA enters into force—
6 (A) the amendments made by subsections
7 (a) and (b) to sections 301 and 308 of the
8 Trade Agreements Act of 1979 (19 U.S.C.
9 2511 and 2518) shall not apply with respect to
10 the contract; and
11 (B) sections 301 and 308 of such Act, as
12 in effect on the day before that date, shall con-
13 tinue to apply on and after that date with re-
14 spect to the contract.

15 **SEC. 506. ACTIONS AFFECTING UNITED STATES CULTURAL**
16 **INDUSTRIES.**

17 (a) IN GENERAL.—Section 182(f) of the Trade Act
18 of 1974 (19 U.S.C. 2242(f)) is amended—
19 (1) in paragraph (1)(C), by striking "article
20 2106 of the North American Free Trade Agree-
21 ment" and inserting "article 32.6 of the USMCA (as
22 defined in section 3 of the United States-Mexico-
23 Canada Agreement Implementation Act)"; and
24 (2) in paragraph (2), in the matter preceding
25 subparagraph (A), by striking "article 2106 of the

1 North American Free Trade Agreement" and insert-
2 ing "article 32.6 of the USMCA".
3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on the date on which the
5 USMCA enters into force.

6 **SEC. 507. REGULATORY TREATMENT OF URANIUM PUR-**
7 **CHASES.**

8 (a) IN GENERAL.—Section 1017(c) of the Energy
9 Policy Act of 1992 (42 U.S.C. 2296b–6(c)) is amended
10 by striking "North American Free Trade Agreement" and
11 inserting "USMCA (as defined in section 3 of the United
12 States-Mexico-Canada Agreement Implementation Act)".
13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the date on which the
15 USMCA enters into force.

16 **SEC. 508. REPORT ON AMENDMENTS TO EXISTING LAW.**

17 Not later than 180 days after the date of the enact-
18 ment of this Act, the Trade Representative shall submit
19 to the Committee on Finance of the Senate and the Com-
20 mittee on Ways and Means of the House of Representa-
21 tives a report setting forth a proposal for technical and
22 conforming amendments to the laws under the jurisdiction
23 of such committees, and other laws, necessary to fully
24 carry out the provisions of, and amendments made by, this
25 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)".

1 **Subtitle B—Joint Reviews**
2 **Regarding Extension of USMCA**

3 **SEC. 611. PARTICIPATION IN JOINT REVIEWS WITH CANADA**
4 **AND MEXICO REGARDING EXTENSION OF THE**
5 **TERM OF THE USMCA AND OTHER ACTION**
6 **REGARDING THE USMCA.**

7 (a) IN GENERAL.—Pursuant to the requirements of
8 this section, the President shall consult with the appro-
9 priate congressional committees and stakeholders before
10 each joint review, including consultation with respect to—
11 (1) any recommendation for action to be pro-
12 posed at the review; and
13 (2) the decision whether or not to confirm that
14 the United States wishes to extend the USMCA.
15 (b) CONSULTATIONS WITH CONGRESS AND STAKE-
16 HOLDERS.—
17 (1) PUBLICATION AND PUBLIC HEARING.—At
18 least 270 days before a joint review commences, the
19 Trade Representative shall publish in the Federal
20 Register a notice regarding the joint review and
21 shall, as soon as possible following such publication,
22 provide opportunity for the presentation of views re-
23 lating to the operation of the USMCA, including a
24 public hearing.

1 (2) REPORT TO CONGRESS.—At least 180 days
2 before a 6-year joint review under article 34.7 of the
3 USMCA commences, the Trade Representative shall
4 report to the appropriate congressional committees
5 regarding—
6 (A) the assessment of the Trade Rep-
7 resentative with respect to the operation of the
8 USMCA;
9 (B) the precise recommendation for action
10 to be proposed at the review and the position of
11 the United States with respect to whether to ex-
12 tend the term of the USMCA;
13 (C) what, if any, prior efforts have been
14 made to resolve any concern that underlies that
15 recommendation or position; and
16 (D) the views of the advisory committees
17 established under section 135 of the Trade Act
18 of 1974 (19 U.S.C. 2155) regarding that rec-
19 ommendation or position.
20 (c) SUBSEQUENT ACTION TO ADDRESS LACK OF
21 AGREEMENT ON TERM EXTENSION.—
22 (1) IN GENERAL.—If, as part of a joint review,
23 any USMCA country does not confirm that the
24 country wishes to extend the term of the USMCA
25 under article 34.7.3 of the USMCA, at least 70 days

1 before any subsequent annual joint review meeting
2 conducted as required under article 34.7 of the
3 USMCA, the Trade Representative shall report to
4 the appropriate congressional committees regard-
5 ing—
6 (A) any reason offered by a USMCA coun-
7 try regarding why the country is unable to
8 agree to extend the term of the USMCA;
9 (B) the progress that has been made in ef-
10 forts to achieve resolution of the concerns of
11 that country;
12 (C) any proposed action that the Trade
13 Representative intends to raise during the
14 meeting; and
15 (D) the views of the advisory committees
16 established under section 135 of the Trade Act
17 of 1974 (19 U.S.C. 2155) regarding the rea-
18 sons described in subparagraph (A) and any
19 proposed action under subparagraph (C).
20 (2) ADDITIONAL INFORMATION.—The Trade
21 Representative shall also provide detailed and timely
22 information in response to any questions posed by
23 the appropriate congressional committees with re-
24 spect to any meeting described in paragraph (1), in-
25 cluding by submitting to those committees copies of

1 any proposed text that the Trade Representative
2 plans to submit to the other parties to the meeting.
3 (d) CONGRESSIONAL ENGAGEMENT AFTER JOINT
4 REVIEW.—
5 (1) IN GENERAL.—Not later than 20 days after
6 the USMCA countries have met for a joint review,
7 the Trade Representative shall brief the appropriate
8 congressional committees regarding the positions ex-
9 pressed by the countries during the joint review and
10 what, if any, actions were agreed to by the countries.
11 (2) CONTINUED ENGAGEMENT.—After a joint
12 review, the Trade Representative shall keep the ap-
13 propriate congressional committees timely apprised
14 of any developments arising out of or related to the
15 review.
16 (e) DEFINITIONS.—In this section:
17 (1) JOINT REVIEW.—The term "joint review"
18 means a review conducted under the process pro-
19 vided for in article 34.7 of the USMCA relating to
20 extension of the term of the USMCA.
21 (2) USMCA COUNTRY.—The term "USMCA
22 country" has the meaning given that term in section
23 202(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.

1 (c) MEETINGS.—The Interagency Labor Committee
2 shall meet at least once every 90 days during the 5-year
3 period beginning on the date of the enactment of this Act,
4 and at least once every 180 days thereafter for 5 years.
5 (d) INFORMATION SHARING.—Notwithstanding any
6 other provision of law, the members of the Interagency
7 Labor Committee may exchange information for purposes
8 of carrying out this title.

9 **SEC. 712. DUTIES.**

10 The duties of the Interagency Labor Committee shall
11 include the following:
12 (1) Coordinating the activities of departments
13 and agencies of the Committee in monitoring imple-
14 mentation of and compliance with labor obligations,
15 including by—
16 (A) requesting and reviewing relevant in-
17 formation from the governments of USMCA
18 countries and from the public;
19 (B) coordinating visits to Mexico as nec-
20 essary to assess implementation of Mexico's
21 labor reform and compliance with the labor ob-
22 ligations of Mexico;
23 (C) receiving and reviewing quarterly as-
24 sessments from the labor attachés with respect

1 to the implementation of and compliance with
2 Mexico's labor reform; and
3 (D) coordinating with the Secretary of
4 Treasury with respect to support relating to
5 labor issues provided to Mexico by the Inter-
6 American Development Bank.
7 (2) Establishing an ongoing dialogue with ap-
8 propriate officials of the Government of Mexico re-
9 garding the implementation of Mexico's labor reform
10 and compliance with its labor obligations.
11 (3) Coordinating with other institutions and
12 governments with respect to support relating to
13 labor issues, such as the International Labour Orga-
14 nization and the Government of Canada.
15 (4) Identifying priority issues for capacity-
16 building activities in Mexico to be funded by the
17 United States, drawing primarily on the expertise of
18 the Department of Labor.
19 (5) Meeting, at least biannually during the 5-
20 year period beginning on the date of the enactment
21 of this Act and at least annually for 5 years there-
22 after, with the Labor Advisory Committee for Trade
23 Negotiations and Trade Policy established under
24 section 135(c)(1) of the Trade Act of 1974 (19
25 U.S.C. 2155(c)(1)) (or any successor advisory com-

1 mittee) to consult and provide opportunities for
2 input with respect to—
3 (A) the implementation of Mexico's labor
4 reform;
5 (B) labor capacity-building activities in
6 Mexico funded by the United States;
7 (C) labor monitoring efforts;
8 (D) labor enforcement priorities; and
9 (E) other relevant issues.
10 (6) Based on the assessments required by sec-
11 tion 714, making recommendations relating to dis-
12 pute settlement actions to the Trade Representative,
13 in accordance with section 715.
14 (7) Based on reports provided by the Forced
15 Labor Enforcement Task Force under section 743,
16 developing recommendations for appropriate enforce-
17 ment actions by the Trade Representative.
18 (8) Reviewing reports submitted by the labor
19 experts appointed in accordance with Annex 31–A of
20 the USMCA, with respect to the functioning of that
21 Annex.
22 (9) Reviewing reports submitted by the Inde-
23 pendent Mexico Labor Expert Board under section
24 734.

1 **SEC. 713. ENFORCEMENT PRIORITIES.**

2 The Interagency Labor Committee shall—

3 (1) review the list of priority sectors under
4 Annex 31–A of the USMCA and suggest to USTR
5 additional sectors for review by the USMCA coun-
6 tries as appropriate;

7 (2) establish and annually update a list of pri-
8 ority subsectors within such priority sectors to be
9 the focus of the enforcement efforts of the Com-
10 mittee, the first of which shall consist of—

11 (A) auto assembly;

12 (B) auto parts;

13 (C) aerospace;

14 (D) industrial bakeries;

15 (E) electronics;

16 (F) call centers;

17 (G) mining; and

18 (H) steel and aluminum; and

19 (3) review priority facilities within such priority
20 subsectors for monitoring and enforcement.

21 **SEC. 714. ASSESSMENTS.**

22 (a) ONGOING ASSESSMENTS.—For the 10-year pe-
23 riod beginning on the date of the enactment of this Act,
24 except as provided in subsection (b), the Interagency
25 Labor Committee shall assess on a biannual basis the ex-

1 tent to which Mexico is in compliance with its obligations
2 under Annex 23–A of the USMCA.

3 (b) CONSULTATION RELATING TO ANNUAL ASSESS-
4 MENT.—On or after the date that is 5 years after the date
5 of the enactment of this Act, the Interagency Labor Com-
6 mittee may consult with the appropriate congressional
7 committees with respect to the frequency of the assess-
8 ment required under subsection (a) and, with the approval
9 of both such committees, may conduct such assessment
10 on an annual basis for the following 5 years.

11 (c) MATTERS TO BE INCLUDED.—The assessment
12 required under subsection (a) shall also include each of
13 the following:

14 (1) Whether Mexico is providing adequate fund-
15 ing to implement and enforce Mexico's labor reform,
16 including specifically whether Mexico has provided
17 funding consistent with commitments made to con-
18 tribute the following amounts for the labor reform
19 implementation budget:

20 (A) $176,000,000 for 2021.

21 (B) $325,000,000 for 2022.

22 (C) $328,000,000 for 2023.

23 (2) The extent to which any legal challenges to
24 Mexico's labor reform have succeeded in that court
25 system.

1 (3) The extent to which Mexico has imple-
2 mented the federal and state labor courts, registra-
3 tion entity, and federal and state conciliation centers
4 consistent with the timeline set forth for Mexico's
5 labor reform, in the September 2019 policy state-
6 ments by the Government of Mexico on a national
7 strategy for implementation of the labor justice sys-
8 tem, and in subsequent policy statements in accord-
9 ance with Mexico's labor reform.

10 **SEC. 715. RECOMMENDATION FOR ENFORCEMENT ACTION.**

11 (a) RECOMMENDATION TO INITIATE.—If the Inter-
12 agency Labor Committee determines, pursuant to an as-
13 sessment under section 714, as a result of monitoring ac-
14 tivities described in section 712(1), or pursuant to a report
15 of the Independent Mexico Labor Expert Board that a
16 USMCA country has failed to meets its labor obligations,
17 including with respect to obligations under Annex 23–A
18 of the USMCA, the Committee shall recommend that the
19 Trade Representative initiate enforcement actions
20 under—

21 (1) article 23.13 or 23.17 of the USMCA (re-
22 lating to cooperative labor dialogue and labor con-
23 sultations);

24 (2) articles 31.4 and 31.6 of the USMCA (re-
25 lating to dispute settlement consultations); or

1 (3) Annex 31–A of the USMCA (relating to the
2 rapid response labor mechanism).
3 (b) TRADE REPRESENTATIVE DETERMINATIONS.—
4 Not later than 60 days after the date on which the Trade
5 Representative receives a recommendation pursuant to
6 subsection (a), the Trade Representative shall—
7 (1) determine whether to initiate an enforce-
8 ment action; and
9 (2) if such determination is negative, submit to
10 the appropriate congressional committees a report
11 on the reasons for such negative determination.
12 **SEC. 716. PETITION PROCESS.**
13 (a) IN GENERAL.—The Interagency Labor Com-
14 mittee shall establish procedures for submissions by the
15 public of information with respect to potential failures to
16 implement the labor obligations of a USMCA country.
17 (b) FACILITY-SPECIFIC PETITIONS.—With respect to
18 information submitted in accordance with the procedures
19 established under subsection (a) accompanying a petition
20 relating to a denial of rights at a covered facility, as such
21 terms are defined for purposes of Annex 31–A of the
22 USMCA:
23 (1) The Interagency Labor Committee shall re-
24 view such information within 30 days of submission
25 and shall determine whether there is sufficient, cred-

1 ible evidence of a denial of rights (as so defined) en-
2 abling the good-faith invocation of enforcement
3 mechanisms.
4 (2) If the Committee reaches a negative deter-
5 mination under paragraph (1), the Committee shall
6 certify such determination to the appropriate con-
7 gressional committees and the petitioner.
8 (3) If the Committee reaches an affirmative de-
9 termination under paragraph (1), the Trade Rep-
10 resentative shall submit a request for review, in ac-
11 cordance with article 31–A.4 of such Annex, with re-
12 spect to the covered facility and shall inform the pe-
13 titioner and the appropriate congressional commit-
14 tees of the submission of such request.
15 (4) Not later than 60 days after the date of an
16 affirmative determination under paragraph (1), the
17 Trade Representative shall—
18 (A) determine whether to request the es-
19 tablishment of a rapid response labor panel in
20 accordance with such Annex; and
21 (B) if such determination is negative, cer-
22 tify such determination to the appropriate con-
23 gressional committees in conjunction with the
24 reasons for such determination and the details
25 of any agreed-upon remediation plan.

1 (c) OTHER PETITIONS.—With respect to information
2 submitted in accordance with the procedures established
3 under subsection (a) accompanying a petition relating to
4 any other violation of the labor obligations of a USMCA
5 country:

6 (1) The Interagency Labor Committee shall re-
7 view such information not later than 20 days after
8 the date of the submission and shall determine
9 whether the information warrants further review.

10 (2) If the Committee reaches an affirmative de-
11 termination under paragraph (1), such further re-
12 view shall focus exclusively on determining, not later
13 than 60 days after the date of such submission,
14 whether there is sufficient, credible evidence that the
15 USMCA country is in violation of its labor obliga-
16 tions, for purposes of initiating enforcement action
17 under chapter 23 or chapter 31 of the USMCA.

18 (3) If the Committee reaches an affirmative de-
19 termination under paragraph (2), the Trade Rep-
20 resentative shall—

21 (A) not later than 60 days after the date
22 of the determination of the Committee, initiate
23 appropriate enforcement action under such
24 chapter 23 or chapter 31; or

1 (B) submit to the appropriate congres-
2 sional committees a notification including the
3 reasons for which action was not initiated with-
4 in such 60-day period.

5 **SEC. 717. HOTLINE.**

6 The Interagency Labor Committee shall establish a
7 web-based hotline, monitored by the Department of Labor,
8 to receive confidential information regarding labor issues
9 among USMCA countries directly from interested parties,
10 including Mexican workers.

11 **SEC. 718. REPORTS.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, and every 180 days
14 thereafter for 10 years except as provided in subsection
15 (b), the Interagency Labor Committee shall submit to the
16 appropriate congressional committees a report that in-
17 cludes—

18 (1) a description of Committee staffing and ca-
19 pacity building activities with Mexico;

20 (2) information regarding the budget resources
21 for Mexico's labor reform and the deadlines in the
22 September 2019 policy statements by the Govern-
23 ment of Mexico on a national strategy for implemen-
24 tation of the labor justice system and in subsequent

1 policy statements in accordance with Mexico's labor
2 reform;
3 (3) a summary of petitions filed in accordance
4 with section 716 and the use of the rapid response
5 labor mechanism under Annex 31–A of the USMCA;
6 (4) the results of the most recent assessment
7 conducted under section 714; and
8 (5) if, with respect to any report of the Inde-
9 pendent Mexico Labor Expert Board submitted
10 under section 734 that includes a determination de-
11 scribed in paragraph (2) of such section, the Inter-
12 agency Labor Committee does not concur with such
13 determination, an explanation of the reasons for not
14 concurring in such determination and a commitment
15 to provide an oral briefing with respect to such ex-
16 planation upon request.
17 (b) CONSULTATION RELATING TO ANNUAL ASSESS-
18 MENT.—On or after the date that is 5 years after the date
19 of the enactment of this Act, the Trade Representative
20 and the Secretary of Labor may consult with the appro-
21 priate congressional committees with respect to the fre-
22 quency of the reports required under subsection (a) and,
23 with the approval of both such committees, may submit
24 such report on an annual basis for the following 5 years.

1 (c) FIVE-YEAR ASSESSMENT.—Not later than the
2 date that is 5 years after the date of the establishment
3 of the Interagency Labor Committee pursuant to section
4 711(a), the Committee shall jointly submit to the appro-
5 priate congressional committees—
6 (1) a comprehensive assessment of the imple-
7 mentation of Mexico's labor reform, including with
8 respect to—
9 (A) whether Mexico has reviewed and le-
10 gitimized all existing collective bargaining
11 agreements in Mexico;
12 (B) whether Mexico has addressed the pre-
13 existing legal or administrative labor disputes;
14 (C) whether Mexico has established the
15 Federal Center for Conciliation and Labor Reg-
16 istration, and an assessment of that Center's
17 operation;
18 (D) whether Mexico has established the
19 federal labor courts, and an assessment of their
20 operation; and
21 (E) whether Mexico has established the
22 state conciliation centers and labor courts in all
23 states and an assessment of their operation;
24 and

1 (2) a strategic plan and recommendations for
2 actions to address areas of concern relating to the
3 implementation of Mexico's labor reform, for pur-
4 poses of the joint review conducted pursuant to arti-
5 cle 34.7 of the USMCA on the sixth anniversary of
6 the entry into force of the USMCA.

7 **SEC. 719. CONSULTATIONS ON APPOINTMENT AND FUND-**
8 **ING OF RAPID RESPONSE LABOR PANELISTS.**

9 (a) IN GENERAL.—The Interagency Labor Com-
10 mittee shall consult with the Labor Advisory Committee
11 established under section 135(c)(1) of the Trade Act of
12 1974 (19 U.S.C. 2155(c)(1)) and the Advisory Committee
13 for Trade Policy and Negotiations established under sec-
14 tion 135(b) of such Act (or successor advisory committees)
15 and the appropriate congressional committees with respect
16 to the selection and appointment of candidates for the
17 rapid response labor panelists described in Annex 31–A
18 of the USMCA.

19 (b) FUNDING.—The United States, in consultation
20 with Mexico, shall provide adequate funding for rapid re-
21 sponse labor panelists to carry out the responsibilities
22 under the USMCA promptly and fully.

23 **Subtitle B—Mexico Labor Attachés**

24 **SEC. 721. ESTABLISHMENT.**

25 The Secretary of Labor shall—

1 (1) hire and fix the compensation of up to 5 ad-
2 ditional full-time officers or employees of the De-
3 partment of Labor; and
4 (2) detail or assign such officers or employees
5 to the United States Embassy or a United States
6 Consulate in Mexico to carry out the duties de-
7 scribed in section 722.

8 **SEC. 722. DUTIES.**

9 The duties described in this section are the following:
10 (1) Assisting the Interagency Labor Committee
11 to monitor and enforce the labor obligations of Mex-
12 ico.
13 (2) Submitting to the Interagency Labor Com-
14 mittee on a quarterly basis reports on the efforts un-
15 dertaken by Mexico to comply with its labor obliga-
16 tions.

17 **SEC. 723. STATUS.**

18 Any officer or employee, while detailed or assigned
19 under this subtitle, shall be considered, for the purpose
20 of preserving their allowances, privileges, rights, seniority,
21 and other benefits as such, an officer or employee of the
22 United States Government and of the agency of the
23 United States Government from which detailed or as-
24 signed, and shall continue to receive compensation, allow-
25 ances, and benefits from program funds appropriated to

1 that agency or made available to that agency for purposes
2 related to the activities of the detail or assignment, in ac-
3 cordance with authorities related to their employment sta-
4 tus and agency policies.

5 Subtitle C—Independent Mexico
6 Labor Expert Board

7 **SEC. 731. ESTABLISHMENT.**

8 There is hereby established a board, to be known as
9 the "Independent Mexico Labor Expert Board", to be re-
10 sponsible for monitoring and evaluating the implementa-
11 tion of Mexico's labor reform and compliance with its labor
12 obligations. The Board shall also advise the Interagency
13 Labor Committee with respect to capacity-building activi-
14 ties needed to support such implementation and compli-
15 ance.

16 **SEC. 732. MEMBERSHIP; TERM.**

17 (a) MEMBERSHIP.—The Board shall be composed of
18 12 members who shall be appointed as follows:

19 (1) Four members to be appointed by the
20 Labor Advisory Committee established under section
21 135(c)(1) of the Trade Act of 1974 (19 U.S.C.
22 2155(c)(1)) (or successor advisory committee).

23 (2) Two members appointed by the Speaker of
24 the House of Representatives, in consultation with

1 the Chair of the Committee on Ways and Means of
2 the House of Representatives.
3 (3) Two members appointed by the president
4 pro tempore of the Senate from among individuals
5 recommended by the majority leader of the Senate
6 and in consultation with the Chair of the Committee
7 on Finance of the Senate.
8 (4) Two members appointed by the minority
9 leader of the House of Representatives, in consulta-
10 tion with the Ranking Member of the Committee on
11 Ways and Means of the House of Representatives.
12 (5) Two members appointed by the President
13 pro tempore of the Senate from among individuals
14 recommended by the minority leader of the Senate
15 and in consultation with the Ranking Member of the
16 Committee on Finance of the Senate.
17 (b) TERM.—Except as provided in subsection (c),
18 members of the Board shall serve for a term of 6 years.
19 (c) EXTENSION OF TERM.—If the Board determines,
20 at the end of the 6-year period beginning on the date of
21 the appointment of the last member appointed in accord-
22 ance with subsection (a), that Mexico is not fully in com-
23 pliance with its labor obligations, a majority of the mem-
24 bers of the Board may determine to extend its term for
25 4 additional years. A new Board shall be appointed in ac-

1 cordance with subsection (a) and shall serve for a single
2 term of 4 years.

3 **SEC. 733. FUNDING.**

4 The United States shall provide necessary funding to
5 support the work of the Board, including with respect to
6 translation services and personnel support.

7 **SEC. 734. REPORTS.**

8 For the 6-year period beginning on the date of the
9 enactment of this Act, and for an additional 4 years if
10 the term of the Board is extended in accordance with sec-
11 tion 732(c), the Board shall submit to appropriate con-
12 gressional committees and to the Interagency Labor Com-
13 mittee an annual report that—

14 (1) contains an assessment of—

15 (A) the efforts of Mexico to implement
16 Mexico's labor reform; and

17 (B) the manner and extent to which labor
18 laws are generally enforced in Mexico; and

19 (2) may include a determination that Mexico is
20 not in compliance with its labor obligations.

21 **Subtitle D—Forced Labor**

22 **SEC. 741. FORCED LABOR ENFORCEMENT TASK FORCE.**

23 (a) ESTABLISHMENT.—Not later than 90 days after
24 the date of the enactment of this Act, the President shall
25 establish a Forced Labor Enforcement Task Force to

1 monitor United States enforcement of the prohibition
2 under section 307 of the Tariff Act of 1930 (19 U.S.C.
3 1307).

4 (b) MEMBERS; MEETINGS.—

5 (1) MEMBERS.—The Task Force shall be
6 chaired by the Secretary of Homeland Security and
7 shall be comprised of representatives from such
8 other agencies with relevant expertise, including the
9 Office of the United States Trade Representative
10 and the Department of Labor, as the President de-
11 termines appropriate.

12 (2) MEETINGS.—The Task Force shall meet on
13 a quarterly basis regarding active Withhold and Re-
14 lease Orders, ongoing investigations, petitions re-
15 ceived, and enforcement priorities, and other rel-
16 evant issues with respect to enforcing the prohibition
17 under section 307 of the Tariff Act.

18 **SEC. 742. TIMELINE REQUIRED.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 establishment of the Forced Labor Enforcement Task
21 Force pursuant to section 741(a), the Task Force shall
22 establish timelines for responding to petitions submitted
23 to the Commissioner of U.S. Customs and Border Protec-
24 tion alleging that goods are being imported by or with
25 child or forced labor.

1 (b) CONSULTATION REQUIRED.—In establishing the
2 timelines during such 90-day period, the Task Force shall
3 consult with the appropriate congressional committees.
4 (c) REPORT.—The Task Force shall timely submit to
5 the appropriate congressional committees a report that
6 contains the timelines established pursuant to subsection
7 (a) and shall make such report publicly available.

8 **SEC. 743. REPORTS REQUIRED.**

9 The Forced Labor Enforcement Task Force shall
10 submit to appropriate congressional committees a bian-
11 nual report that includes the following:
12 (1) The enforcement activities and priorities of
13 the Department of Homeland Security with respect
14 to enforcing the prohibition under section 307 of the
15 Tariff Act of 1930 (19 U.S.C. 1307).
16 (2) The number of instances in which merchan-
17 dise was denied entry pursuant to such prohibition
18 during the preceding 180-day period.
19 (3) A description of the merchandise so denied
20 entry.
21 (4) An enforcement plan regarding goods in-
22 cluded in the most recent "Findings on the Worst
23 Forms of Child Labor" report submitted in accord-
24 ance with section 504 of the Trade Act of 1974 (19
25 U.S.C. 2464) and "List of Goods Produced by Child

1 Labor or Forced Labor" submitted in accordance
2 with section 105(b)(2)(C) of the Trafficking Victims
3 Protection Reauthorization Act of 2005 (22 U.S.C.
4 7112(b)(2)(C)).
5 (5) Such other information as the Forced Labor
6 Enforcement Task Force considers appropriate with
7 respect to monitoring and enforcing compliance with
8 section 307 of the Tariff Act of 1930 (19 U.S.C.
9 1307).

10 **SEC. 744. DUTIES RELATED TO MEXICO.**

11 The Task Force shall—
12 (1) develop, in consultation with the appro-
13 priate congressional committees, an enforcement
14 plan regarding goods produced by or with forced
15 labor in Mexico; and
16 (2) report to the Interagency Labor Committee
17 with respect to any concerns relating to the enforce-
18 ment of the prohibition under section 307 of the
19 Tariff Act with respect to Mexico, including any alle-
20 gations that may be filed with respect to forced
21 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

1 facility within the meaning of such terms under
2 Annex 31–A of the USMCA.
3 (2) A course of remediation for denial of rights
4 has been agreed to and has been completed in ac-
5 cordance with the agreed-upon time.
6 (3) The denial of rights has been otherwise
7 remedied.

8 **SEC. 753. FINAL REMEDIES.**

9 (a) IN GENERAL.—If a rapid response labor panel
10 constituted in accordance with Annex 31–A of the
11 USMCA determines with respect to a case that there has
12 been a denial of rights within the meaning of such Annex,
13 the Trade Representative may, in consultation with the
14 appropriate congressional committees—
15 (1) direct the Secretary of the Treasury, until
16 the date of the notification described in subsection
17 (b) and in accordance with Annex 31–A of the
18 USMCA—
19 (A) to—
20 (i) deny entry to goods, produced
21 wholly or in part, from any covered facility
22 involved in such case; or
23 (ii) allow for the release of goods, pro-
24 duced wholly or in part, from such covered

1 facilities only upon payment of duties and
2 any penalty; and
3 (B) to apply any duties or penalties to cus-
4 toms entries for which liquidation was sus-
5 pended pursuant to section 752; and
6 (2) apply other remedies that are appropriate
7 and available under Annex 31–A of the USMCA,
8 until the denial of rights with respect to the case has
9 been remedied.
10 (b) REMEDIATION NOTIFICATION.—The Trade Rep-
11 resentative shall promptly notify the Secretary when the
12 denial of rights with respect to a case described in sub-
13 section (a) has been remedied.

14 TITLE VIII—ENVIRONMENT 15 MONITORING AND ENFORCE- 16 MENT

17 **SEC. 801. DEFINITIONS.**

18 In this title:
19 (1) ENVIRONMENTAL LAW.—The term "envi-
20 ronmental law" has the meaning given the term in
21 article 24.1 of the USMCA.
22 (2) ENVIRONMENTAL OBLIGATIONS.—The term
23 "environmental obligations" means obligations relat-
24 ing 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.

1 (b) MEMBERSHIP.—The members of the Interagency
2 Environment Committee shall be the following:
3 (1) The Trade Representative, who shall serve
4 as chairperson.
5 (2) Representatives from each of the following:
6 (A) The National Oceanic Atmospheric Ad-
7 ministration.
8 (B) The U.S. Fish and Wildlife Service.
9 (C) The U.S. Forest Service.
10 (D) The Environmental Protection Agency.
11 (E) The Animal and Plant Health Inspec-
12 tion Service.
13 (F) U.S. Customs and Border Protection.
14 (G) The Department of State.
15 (H) The Department of Justice.
16 (I) The Department of the Treasury.
17 (J) The United States Agency for Inter-
18 national Development.
19 (3) Representatives from other Federal agen-
20 cies, as the President determines to be appropriate.
21 (c) INFORMATION SHARING.—Notwithstanding any
22 other provision of law, the members of the Interagency
23 Environment Committee may exchange information for
24 purposes of carrying out this subtitle.

1 **SEC. 812. ASSESSMENT.**

2 (a) IN GENERAL.—The Interagency Environment
3 Committee shall carry out an assessment of the environ-
4 mental laws and policies of the USMCA countries—

5 (1) to determine if such laws and policies are
6 sufficient to implement their environmental obliga-
7 tions; and

8 (2) to identify any gaps between such laws and
9 policies and their environmental obligations.

10 (b) MATTERS TO BE INCLUDED.—The assessment
11 required by subsection (a) shall identify the environmental
12 laws and policies of the USMCA countries with respect
13 to which enhanced cooperation, including the provision of
14 technical assistance and capacity building assistance, mon-
15 itoring actions, and enforcement actions, if appropriate,
16 should be carried out on an enhanced and continuing
17 basis.

18 (c) REPORT.—Not later than 90 days after the date
19 on which the Interagency Environment Committee is es-
20 tablished, or the date on which the USMCA enters into
21 force, whichever occurs earlier, the Interagency Environ-
22 ment Committee shall submit a report that contains the
23 assessment required by subsection (a) to—

24 (1) the appropriate congressional committees;
25 and

1 (2) the Trade and Environment Policy Advisory
2 Committee (or successor advisory committee) estab-
3 lished under section 135(c)(1) of the Trade Act of
4 1974 (19 U.S.C. 2155(c)(1)).
5 (d) UPDATE.—The Interagency Environment Com-
6 mittee shall—
7 (1) update the assessment required by sub-
8 section (a) at the appropriate time prior to submis-
9 sion of the report required by section 816(a) that is
10 to be submitted in the fifth year after the USMCA
11 enters into force; and
12 (2) submit the updated assessment to the Trade
13 Representative for inclusion in such fifth annual re-
14 port.
15 (e) CONSULTATION.—The Interagency Environment
16 Committee shall consult on a regular basis with the
17 USMCA countries—
18 (1) in carrying out the assessment required by
19 subsection (a) and the update to the assessment re-
20 quired by subsection (d); and
21 (2) in preparing the report required by sub-
22 section (c).
23 **SEC. 813. MONITORING ACTIONS.**
24 (a) IN GENERAL.—The Interagency Environment
25 Committee shall carry out monitoring actions, which shall

1 include the monitoring actions described in subsections
2 (b), (c), and (d), with respect to the implementation and
3 maintenance of the environmental obligations of the
4 USMCA countries.

5 (b) REVIEW OF CEC SECRETARIAT SUBMISSIONS.—

6 (1) IN GENERAL.—Not later than 30 days after
7 the date on which the Secretariat of the Commission
8 for Environmental Cooperation prepares a factual
9 record under article 24.28 of the USMCA relating to
10 a submission filed under article 24.27 of the
11 USMCA with respect to a USMCA country, the
12 Interagency Environment Committee—

13 (A) shall review the factual record; and

14 (B) may, based on findings of the review
15 under subparagraph (A) that the USMCA
16 country is not in compliance with its environ-
17 mental obligations, request enforcement actions
18 under section 814 with respect to the USMCA
19 country.

20 (2) WRITTEN JUSTIFICATION.—If the Inter-
21 agency Environment Committee finds that a
22 USMCA country is not in compliance with its envi-
23 ronmental obligations under paragraph (1)(B) and
24 determines not to request enforcement actions under
25 section 814 with respect to the USMCA country, the

1 Committee shall, not later than 30 days after the
2 date on which it makes the determination, provide to
3 the appropriate congressional committees a written
4 explanation and justification of the determination.
5 (c) REVIEW OF REPORTS OF UNITED STATES ENVI-
6 RONMENT ATTACHÉS TO MEXICO.—The Interagency En-
7 vironment Committee shall—
8 (1) review each report submitted to the Com-
9 mittee under section 822(b)(2); and
10 (2) based on the findings of each such report,
11 assess the efforts of Mexico to comply with its envi-
12 ronmental obligations.
13 (d) UNITED STATES IMPLEMENTATION OF ENVIRON-
14 MENT COOPERATION AND CUSTOMS VERIFICATION
15 AGREEMENT.—
16 (1) VERIFICATION OF SHIPMENTS.—The Inter-
17 agency Environment Committee—
18 (A) may request verification of particular
19 shipments of Mexico under the Environment
20 Cooperation and Customs Verification Agree-
21 ment between the United States and Mexico,
22 done at Mexico City on December 10, 2019, in
23 response to—

1 (i) comments submitted by the public
2 to request verification of particular ship-
3 ments of Mexico under such Agreement; or
4 (ii) on its own motion; and
5 (B) upon receipt of comments described in
6 subparagraph (A)(i)—
7 (i) shall review the comments not
8 later than 30 days after the date on which
9 the comments are submitted to the Trade
10 Representative; and
11 (ii) may request the Trade Represent-
12 ative to, within a reasonable period of
13 time, request Mexico to provide relevant in-
14 formation for purposes of verification of
15 particular shipments of Mexico described
16 in subparagraph (A).
17 (2) REVIEW OF RELEVANT INFORMATION AND
18 REQUEST FOR ADDITIONAL STEPS.—The Inter-
19 agency Environment Committee—
20 (A) shall review relevant information pro-
21 vided by Mexico as described in paragraph
22 (1)(B)(ii) to determine if the Trade Representa-
23 tive should request additional steps to verify in-
24 formation provided or related to a particular
25 shipment of Mexico; and

1 (B) may request the Trade Representative
2 to, within a reasonable period of time, request
3 Mexico to take such additional steps with re-
4 spect to the particular shipment.
5 (3) CONSULTATION.—The Trade Representa-
6 tive, on behalf of the Interagency Environment Com-
7 mittee, shall, on a quarterly basis, consult with the
8 appropriate congressional committees and the Trade
9 and Environment Policy Advisory Committee (or
10 successor advisory committee) established under sec-
11 tion 135(c)(1) of the Trade Act of 1974 (19 U.S.C.
12 2155(c)(1)) regarding the public comments and rel-
13 evant information described in paragraph (1) and
14 the actions taken under paragraph (2).
15 (e) APPLICATION.—Subsections (c) and (d) shall
16 apply with respect to Mexico for such time as the USMCA
17 is in force with respect to, and the United States applies
18 the USMCA to, Mexico.
19 **SEC. 814. ENFORCEMENT ACTIONS.**
20 The Interagency Environment Committee—
21 (1) may request the Trade Representative to,
22 within a reasonable period of time, request consulta-
23 tions under—

1 (A) article 24.29 of the USMCA (relating
2 to environment consultations) with respect to
3 the USMCA country; or
4 (B) articles 31.4 and 31.6 of the USMCA
5 (relating to dispute settlement consultations)
6 with respect to the USMCA country; or
7 (2) may request the heads of other Federal
8 agencies described in section 815 to initiate moni-
9 toring or enforcement actions with respect to the
10 USMCA country under the provisions of law de-
11 scribed in section 815.

12 **SEC. 815. OTHER MONITORING AND ENFORCEMENT AC-**
13 **TIONS.**

14 (a) MARINE MAMMAL PROTECTION ACT.—The Sec-
15 retary of Commerce has authority to take appropriate
16 monitoring or enforcement actions under the Marine
17 Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).
18 (b) MAGNUSON-STEVENS FISHERY CONSERVATION
19 AND MANAGEMENT ACT.—The Secretary of Commerce
20 has authority to take appropriate monitoring or enforce-
21 ment actions under the following provisions of law:
22 (1) The Magnuson-Stevens Fishery Conserva-
23 tion and Management Act (16 U.S.C. 1801 et seq.).

1 (2) The Magnuson-Stevens Fishery Conserva-
2 tion and Management Reauthorization Act of 2006
3 (16 U.S.C. 1891 et seq.).
4 (3) The High Seas Driftnet Fishing Morato-
5 rium Protection Act (16 U.S.C. 1826d et seq.).
6 (4) The Shark Conservation Act of 2010 (16
7 U.S.C. 1826k note; 1857 note).
8 (5) The Shark Finning Prohibition Act (16
9 U.S.C. 1822 note).
10 (c) FISHERMEN'S PROTECTIVE ACT OF 1967.—The
11 Secretary of Commerce and Secretary of the Interior have
12 authority to take appropriate monitoring or enforcement
13 actions under section 8 of the Fishermen's Protective Act
14 of 1967 (22 U.S.C. 1978).
15 (d) AGREEMENT ON PORT STATE MEASURES TO
16 PREVENT, DETER AND ELIMINATE ILLEGAL, UNRE-
17 PORTED AND UNREGULATED FISHING.—The Secretary of
18 Commerce has authority to take appropriate monitoring
19 or enforcement actions under the Port State Measures
20 Agreement Act of 2015 (16 U.S.C. 7401 et seq.).
21 (e) ENDANGERED SPECIES ACT.—The Secretary of
22 Agriculture, the Secretary of the Interior, the Secretary
23 of Homeland Security, the Secretary of Commerce, and
24 the Secretary of the Treasury have authority to take ap-

1 propriate monitoring or enforcement actions under the
2 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
3 (f) LACEY ACT.—The Secretary of Agriculture, the
4 Secretary of Commerce, the Secretary of the Interior, the
5 Secretary of Homeland Security, and the Secretary of the
6 Treasury have authority to take appropriate monitoring
7 or enforcement actions under the Lacey Act Amendments
8 of 1981 (16 U.S.C. 3371 et seq.).
9 (g) MIGRATORY BIRD TREATY ACT.—The Secretary
10 of the Interior has authority to take appropriate moni-
11 toring or enforcement actions under the Migratory Bird
12 Treaty Act of 1918 (16 U.S.C. 703 et seq.).
13 (h) ELIMINATE, NEUTRALIZE, AND DISRUPT WILD-
14 LIFE TRAFFICKING ACT.—The Secretary of State, the
15 Secretary of the Interior, the Attorney General, and Ad-
16 ministrator of the United States Agency for International
17 Development have authority to take appropriate moni-
18 toring or enforcement actions under the Eliminate, Neu-
19 tralize, and Disrupt Wildlife Trafficking Act of 2016 (16
20 U.S.C. 7601 et seq.).
21 (i) WILD BIRD CONSERVATION ACT.—The Secretary
22 of the Interior has authority to take appropriate moni-
23 toring or enforcement actions under the Wild Bird Con-
24 servation Act of 1992 (16 U.S.C. 4901 et seq.).

1 (j) CUSTOMS SEIZURE AND OTHER AUTHORITIES.—
2 The Secretary of Homeland Security has authority to take
3 appropriate monitoring or enforcement actions under sec-
4 tion 499 of the Tariff Act of 1930 (19 U.S.C. 1499) or
5 section 596 of such Act (19 U.S.C. 1595a).

6 (k) OTHER RELEVANT PROVISIONS OF LAW.—The
7 Interagency Environment Committee may request the
8 heads of other Federal agencies to take appropriate moni-
9 toring or enforcement actions under other relevant provi-
10 sions of law.

11 (l) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion may be construed to supersede or otherwise limit in
13 any manner the functions or authority of the head of any
14 Federal agency described in this section under any other
15 provision of law.

16 **SEC. 816. REPORT TO CONGRESS.**

17 (a) IN GENERAL.—The Trade Representative, in con-
18 sultation with the head of any Federal agency described
19 in this subtitle, shall submit to the appropriate congres-
20 sional committees a report on the implementation of this
21 subtitle, including—

22 (1) a description of efforts of the USMCA
23 countries to implement their environmental obliga-
24 tions; and

1 (2) a description of additional efforts to be
2 taken with respect to USMCA countries that are
3 failing to implement their environmental obligations.
4 (b) TIMING OF REPORT.—The report required by
5 subsection (a) shall be submitted—
6 (1) not later than 1 year after the date on
7 which the USMCA enters into force;
8 (2) annually for each of the next 4 years; and
9 (3) biennially thereafter.
10 (c) ADDITIONAL MATTERS TO BE INCLUDED IN THE
11 FIFTH ANNUAL REPORT.—The report required by sub-
12 section (a) that is submitted in the fifth year after the
13 USMCA enters into force shall also include the following:
14 (1) The updated assessment required by section
15 812(d).
16 (2) A comprehensive determination regarding
17 USMCA countries' implementation of their environ-
18 mental obligations.
19 (3) An explanation of how compliance with en-
20 vironmental obligations will be taken into consider-
21 ation during the "joint review" conducted pursuant
22 to article 34.7.2 of the USMCA on the sixth anni-
23 versary of the entry into force of the USMCA.

1 **SEC. 817. REGULATIONS.**

2 The head of any Federal agency described in this sub-
3 title, in consultation with the Interagency Environment
4 Committee, may prescribe such regulations as are nec-
5 essary to carry out the authorities of the Federal agency
6 as provided for under this subtitle.

7 Subtitle B—Other Matters

8 **SEC. 821. BORDER WATER INFRASTRUCTURE IMPROVE-**
9 **MENT AUTHORITY.**

10 (a) IN GENERAL.—The Administrator of the Envi-
11 ronmental Protection Agency shall, in coordination with
12 eligible public entities, carry out the planning, design, con-
13 struction, and operation and maintenance of high priority
14 treatment works in the covered area to treat wastewater
15 (including stormwater), nonpoint sources of pollution, and
16 related matters resulting from international transbound-
17 ary water flows originating in Mexico.

18 (b) REPORT TO CONGRESS.—Not later than 1 year
19 after the date of enactment of this Act, and annually
20 thereafter, the Administrator shall submit to Congress a
21 report on activities carried out pursuant to this section.

22 (c) DEFINITIONS.—In this section:

23 (1) COVERED AREA.—The term "covered area"
24 means the portion of the Tijuana River watershed
25 that is in the United States.

1 (2) ELIGIBLE PUBLIC ENTITIES.—The term
2 "eligible public entities" means—
3 (A) the United States Section of the Inter-
4 national Boundary and Water Commission;
5 (B) the Corps of Engineers;
6 (C) the North American Development
7 Bank;
8 (D) the Department of State;
9 (E) any other appropriate Federal agency;
10 (F) the State of California; and
11 (G) any of the following entities with juris-
12 diction over any part of the covered area:
13 (i) A local government.
14 (ii) An Indian Tribe.
15 (iii) A regional water board.
16 (iv) A public wastewater utility.
17 (3) TREATMENT WORKS.—The term "treatment
18 works" has the meaning given that term in section
19 212 of the Federal Water Pollution Control Act.

20 **SEC. 822. DETAIL OF PERSONNEL TO OFFICE OF THE**
21 **UNITED STATES TRADE REPRESENTATIVE.**

22 (a) IN GENERAL.—Upon the request of the Trade
23 Representative, the Administrator of the Environmental
24 Protection Agency, the Director of the U.S. Fish and
25 Wildlife Service, and the Administrator of the National

1 Oceanic Atmospheric Administration may detail, on a re-
2 imbursable basis, one employee of each such respective
3 agency to the Office of the United States Trade Rep-
4 resentative to be assigned to the United States Embassy
5 in Mexico to carry out the duties described in subsection
6 (b).

7 (b) DUTIES.—The duties described in this subsection
8 are the following:

9 (1) Assist the Interagency Environment Com-
10 mittee to carry out monitoring and enforcement ac-
11 tions with respect to the environmental obligations
12 of Mexico.

13 (2) Prepare and submit to the Interagency En-
14 vironment Committee on a quarterly basis a report
15 on efforts of Mexico to comply with its environ-
16 mental obligations.

17 Subtitle C—North American 18 Development Bank

19 **SEC. 831. GENERAL CAPITAL INCREASE.**

20 Part 2 of subtitle D of title V of Public Law 103–
21 182 (22 U.S.C. 290m et seq.) is amended by adding at
22 the end the following:

23 **"SEC. 547. FIRST CAPITAL INCREASE.**

24 "(a) SUBSCRIPTION AUTHORIZED.—

1 "(1) IN GENERAL.—The Secretary of the
2 Treasury is authorized to subscribe on behalf of the
3 United States to, and make payment for, 150,000
4 additional shares of the capital stock of the Bank.
5 "(2) LIMITATION.—Any subscription by the
6 United States to the capital stock of the Bank shall
7 be effective only to such extent and in such amounts
8 as are provided in advance in appropriations Acts.
9 "(b) LIMITATIONS ON AUTHORIZATION OF APPRO-
10 PRIATIONS.—
11 "(1) IN GENERAL.—In order to pay for the in-
12 crease in the United States subscription to the Bank
13 under subsection (a), there are authorized to be ap-
14 propriated, without fiscal year limitation,
15 $1,500,000,000 for payment by the Secretary of the
16 Treasury.
17 "(2) ALLOCATION OF FUNDS.—Of the amount
18 authorized to be appropriated under paragraph
19 (1)—
20 "(A) $225,000,000 shall be for paid in
21 shares of the Bank; and
22 "(B) $1,275,000,000 shall be for callable
23 shares of the Bank.".

1 **SEC. 832. POLICY GOALS.**

2 (a) IN GENERAL.—To the extent consistent with the
3 mission and scope of the North American Development
4 Bank on the day before the date of the enactment of this
5 Act and pursuant to section 2 of article II of the Charter,
6 the Secretary of the Treasury should direct the represent-
7 atives of the United States to the Board of Directors of
8 the Bank to use the voice and vote of the United States
9 to give preference to the financing of projects related to
10 environmental infrastructure relating to water pollution,
11 wastewater treatment, water conservation, municipal solid
12 waste, stormwater drainage, non-point pollution, and re-
13 lated matters.

14 (b) CHARTER DEFINED.—In this section, the term
15 "Charter" means the Agreement Concerning the Estab-
16 lishment of a Border Environment Cooperation Commis-
17 sion and a North American Development Bank, signed at
18 Washington and Mexico November 16 and 18, 1993, and
19 entered into force January 1, 1994 (TIAS 12516), be-
20 tween the United States and Mexico.

21 **SEC. 833. EFFICIENCIES AND STREAMLINING.**

22 The Secretary of the Treasury should direct the rep-
23 resentatives of the United States to the Board of Directors
24 of the North American Development Bank to use the voice
25 and vote of the United States to seek to require the Bank
26 to develop and implement efficiency improvements to

1 streamline and accelerate the project certification and fi-
2 nancing process, including through initiatives such as sin-
3 gle certifications for revolving facilities, programmatic cer-
4 tification of similar groups of small projects, expansion of
5 internal authority to approve qualified projects below cer-
6 tain monetary thresholds, and expedited certification for
7 public sector projects subject to lender bidding processes.

8 **SEC. 834. PERFORMANCE MEASURES.**

9 (a) IN GENERAL.—The Secretary of the Treasury
10 should direct the representatives of the United States to
11 the Board of Directors of the North American Develop-
12 ment Bank to use the voice and vote of the United States
13 to seek to require the Bank to develop performance meas-
14 ures that—

15 (1) demonstrate how projects and financing ap-
16 proved by the Bank are meeting the Bank's mission
17 and providing added value to the region near the
18 international land border between the United States
19 and Mexico; and

20 (2) are reviewed and updated not less fre-
21 quently than annually.

22 (b) REPORT TO CONGRESS.—The Secretary of the
23 Treasury shall submit to Congress, with the submission
24 to Congress of the budget of the President for a fiscal
25 year under section 1105(a) of title 31, United States

1 Code, a report on progress in imposing the performance
2 measures described in subsection (a) of this section.

3 TITLE IX—USMCA SUPPLEMENTAL
4 APPROPRIATIONS ACT, 2019

5 The following sums are hereby appropriated, out of
6 any money in the Treasury not otherwise appropriated,
7 for fiscal year 2020 and for other purposes, namely:

8 DEPARTMENT OF AGRICULTURE
9 AGRICULTURAL PROGRAMS
10 ANIMAL AND PLANT HEALTH INSPECTION SERVICE
11 SALARIES AND EXPENSES

12 For an additional amount for "Salaries and Ex-
13 penses", for enforcement of the Lacey Act Amendments
14 of 1981 (16 U.S.C. 3371 et seq.) during fiscal years 2020
15 through 2023 related to trade activities between the
16 United States and Mexico, $4,000,000, to remain avail-
17 able until September 30, 2023: *Provided*, That such
18 amount is designated by the Congress as being for an
19 emergency requirement pursuant to section
20 251(b)(2)(A)(i) of the Balanced Budget and Emergency
21 Deficit Control Act of 1985.

1 DEPARTMENT OF COMMERCE

2 NATIONAL OCEANIC AND ATMOSPHERIC

3 ADMINISTRATION

4 OPERATIONS, RESEARCH, AND FACILITIES

5 For an additional amount for "Operations, Research,
6 and Facilities", $16,000,000, to remain available until
7 September 30, 2023: *Provided*, That $8,000,000 shall be
8 available to engage in cooperation with the Government
9 of Mexico to combat illegal, unreported, and unregulated
10 fishing and enhance the implementation of the Seafood
11 Import Monitoring Program pursuant to 16 U.S.C. 1826
12 and 1829, during fiscal years 2020 through 2023: *Pro-*
13 *vided further*, That $8,000,000 shall be available to carry
14 out section 3 of the Marine Debris Act (33 U.S.C. 1952)
15 during fiscal years 2020 through 2023 in the North Amer-
16 ican region: *Provided further*, That such amount is des-
17 ignated by the Congress as being for an emergency re-
18 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
19 anced Budget and Emergency Deficit Control Act of 1985.

20 OFFICE OF THE UNITED STATES TRADE

21 REPRESENTATIVE

22 SALARIES AND EXPENSES

23 For an additional amount for "Salaries and Ex-
24 penses", $50,000,000, to remain available until September
25 30, 2023: *Provided*, That $30,000,000 shall be available

1 solely to provide for additional capacity of the Office dur-
2 ing fiscal years 2020 through 2023 to monitor compliance
3 with labor obligations (as such term is defined in section
4 701 of this Act), including the necessary expenses of addi-
5 tional full-time employees to participate in the Interagency
6 Labor Committee for Monitoring and Enforcement estab-
7 lished pursuant to section 711 of this Act: *Provided fur-*
8 *ther*, That $20,000,000 shall be available to reimburse the
9 necessary expenses of personnel participating in the Inter-
10 agency Environment Committee for Monitoring and En-
11 forcement established pursuant to section 811 of this Act
12 during fiscal years 2020 through 2023 to monitor compli-
13 ance with environmental obligations (as such term is de-
14 fined in section 801 of this Act), including up to one addi-
15 tional full-time employee detailed to the United States
16 Embassy in Mexico from each of the United States Fish
17 and Wildlife Service, the Environmental Protection Agen-
18 cy, and the National Oceanic and Atmospheric Adminis-
19 tration: *Provided further*, That, if the United States Trade
20 Representative determines that the additional amount ap-
21 propriated under this heading in this Act exceeds the
22 amount sufficient to provide for the reimbursement of per-
23 sonnel specified in the previous proviso, such excess
24 amounts may be used to reimburse the necessary expenses
25 of additional personnel participating in the Interagency

1 Environment Committee for Monitoring and Enforcement
2 during fiscal years 2020 through 2023 to monitor compli-
3 ance with environmental obligations (as such term is de-
4 fined in section 801 of this Act): *Provided further*, That
5 such amount is designated by the Congress as being for
6 an emergency requirement pursuant to section
7 251(b)(2)(A)(i) of the Balanced Budget and Emergency
8 Deficit Control Act of 1985.

9 TRADE ENFORCEMENT TRUST FUND

10 For an additional amount for the "Trade Enforce-
11 ment Trust Fund", $40,000,000, to remain available until
12 September 30, 2023, to carry out the enforcement of envi-
13 ronmental obligations under the USMCA, including for
14 state-to-state dispute settlement actions, during fiscal
15 years 2020 through 2023: *Provided*, That, amounts appro-
16 priated in this paragraph shall not count toward the limi-
17 tation specified in section 611(b)(2) of the Trade Facilita-
18 tion and Trade Enforcement Act of 2015 (19 U.S.C.
19 4405): *Provided further*, That such amount is designated
20 by the Congress as being for an emergency requirement
21 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
22 et and Emergency Deficit Control Act of 1985.

1 DEPARTMENT OF THE INTERIOR

2 UNITED STATES FISH AND WILDLIFE SERVICE

3 RESOURCE MANAGEMENT

4 For an additional amount for "Resource Manage-
5 ment", to enforce the Lacey Act Amendments of 1981 (16
6 U.S.C. 3371 et seq.) and sections 42 and 43 of title 18,
7 United States Code, with respect to goods imported or ex-
8 ported between the United States and Mexico, during fis-
9 cal years 2020 through 2023, $4,000,000, to remain avail-
10 able until September 30, 2023: *Provided*, That such
11 amount is designated by the Congress as being for an
12 emergency requirement pursuant to section
13 251(b)(2)(A)(i) of the Balanced Budget and Emergency
14 Deficit Control Act of 1985.

15 ENVIRONMENTAL PROTECTION AGENCY

16 ENVIRONMENTAL PROGRAMS AND MANAGEMENT

17 For an additional amount for "Environmental Pro-
18 grams and Management" for necessary expenses for car-
19 rying out the Environmental Protection Agency's efforts
20 through the Commission for Environmental Cooperation
21 during fiscal years 2020 through 2023, to reduce pollu-
22 tion, strengthen environmental governance, conserve bio-
23 logical diversity, and sustainably manage natural re-
24 sources, $4,000,000, to remain available until expended:
25 *Provided*, That such amount is designated by the Congress

1 as being for an emergency requirement pursuant to sec-
2 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-
3 gency Deficit Control Act of 1985.

4 STATE AND TRIBAL ASSISTANCE GRANTS

5 For an additional amount for "State and Tribal As-
6 sistance Grants" for architectural, engineering, planning,
7 design, construction and related activities in connection
8 with the construction of high priority wastewater facilities
9 in the area of the United States-Mexico Border, after con-
10 sultation with the appropriate border commission,
11 $300,000,000, to remain available until expended: *Pro-*
12 *vided*, That such amount is designated by the Congress
13 as being for an emergency requirement pursuant to sec-
14 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-
15 gency Deficit Control Act of 1985.

16 DEPARTMENT OF LABOR

17 DEPARTMENTAL MANAGEMENT

18 SALARIES AND EXPENSES

19 For an additional amount for "Salaries and Ex-
20 penses", $210,000,000, for the Bureau of International
21 Labor Affairs to administer or operate international labor
22 activities, bilateral and multilateral technical assistance,
23 and microfinance programs, by or through contracts,
24 grants, subgrants and other arrangements; of which
25 $180,000,000, to remain available until December 31,

1 2023, shall be used to support reforms of the labor justice
2 system in Mexico, including grants to support worker-fo-
3 cused capacity building, efforts to reduce workplace dis-
4 crimination in Mexico, efforts to reduce child labor and
5 forced labor in Mexico, efforts to reduce human traf-
6 ficking, efforts to reduce child exploitation, and other ef-
7 forts related to implementation of the USMCA; and of
8 which $30,000,000, to remain available until September
9 30, 2027, shall be available to provide for additional ca-
10 pacity of the Bureau of International Labor Affairs during
11 fiscal years 2020 through 2027 to monitor compliance
12 with labor obligations (as such term is defined in section
13 701 of this Act), including the necessary expenses of addi-
14 tional full-time employees of the Bureau to participate in
15 the Interagency Labor Committee for Monitoring and En-
16 forcement established pursuant to section 711 of this Act:
17 *Provided*, That the Secretary of Labor may detail or as-
18 sign up to 5 additional full-time employees of the Bureau
19 to the United States Embassy or consulates in Mexico to
20 (1) assist in monitoring and enforcement actions with re-
21 spect to the labor obligations of Mexico, and (2) prepare
22 a report, to be submitted on a quarterly basis to the Inter-
23 agency Labor Committee for Monitoring and Enforcement
24 through September 30, 2027, on the efforts of Mexico to
25 comply with labor obligations (as such term is defined in

1 section 701 of this Act): *Provided further*, That such em-
2 ployees, while detailed or assigned, shall continue to re-
3 ceive compensation, allowances, and benefits from funds
4 made available to the Bureau for purposes related to the
5 activities of the detail or assignment, in accordance with
6 authorities related to their employment status and agency
7 policies: *Provided further*, That such amount is designated
8 by the Congress as being for an emergency requirement
9 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
10 et and Emergency Deficit Control Act of 1985.

11 MULTILATERAL ASSISTANCE

12 INTERNATIONAL FINANCIAL INSTITUTIONS

13 CONTRIBUTION TO THE NORTH AMERICAN DEVELOPMENT
14 BANK

15 For payment to the North American Development
16 Bank by the Secretary of the Treasury for the United
17 States share of the paid-in portion of the increase in cap-
18 ital stock, $215,000,000, to remain available until ex-
19 pended: *Provided*, That the authorities and conditions ap-
20 plicable to accounts in title V of the Department of State,
21 Foreign Operations, and Related Programs Appropria-
22 tions Act, 2019 (division F of Public Law 116–6) shall
23 apply to the amounts provided under this heading: *Pro-*
24 *vided further*, That such amount is designated by the Con-
25 gress as being for an emergency requirement pursuant to

1 section 251(b)(2)(A)(i) of the Balanced Budget and
2 Emergency Deficit Control Act of 1985.

3 GENERAL PROVISIONS—THIS TITLE

4 SEC. 901. Each amount appropriated or made avail-
5 able by this title is in addition to any amounts otherwise
6 appropriated for any of the fiscal years involved.

7 SEC. 902. No part of any appropriation contained in
8 this title shall remain available for obligation beyond the
9 current fiscal year unless expressly so provided herein.

10 SEC. 903. Unless otherwise provided for by this title,
11 the additional amounts appropriated by this title to appro-
12 priations accounts shall be available under the authorities
13 and conditions applicable to such appropriations accounts
14 for fiscal year 2020.

15 SEC. 904. Each amount designated in this title by
16 the Congress as being for an emergency requirement pur-
17 suant to section 251(b)(2)(A)(i) of the Balanced Budget
18 and Emergency Deficit Control Act of 1985 shall be avail-
19 able (or rescinded or transferred, if applicable) only if the
20 President subsequently so designates all such amounts
21 and transmits such designations to the Congress.

22 BUDGETARY EFFECTS

23 SEC. 905. (a) STATUTORY PAYGO SCORECARDS.—
24 The budgetary effects of this title shall not be entered on
25 either PAYGO scorecard maintained pursuant to section
26 4(d) of the Statutory Pay As-You-Go Act of 2010.

1 (b) SENATE PAYGO SCORECARDS.—The budgetary
2 effects of this title shall not be entered on any PAYGO
3 scorecard maintained for purposes of section 4106 of H.
4 Con. Res. 71 (115th Congress).

5 (c) CLASSIFICATION OF BUDGETARY EFFECTS.—
6 Notwithstanding Rule 3 of the Budget Scorekeeping
7 Guidelines set forth in the joint explanatory statement of
8 the committee of conference accompanying Conference Re-
9 port 105–217 and section 250(c)(7) and (c)(8) of the Bal-
10 anced Budget and Emergency Deficit Control Act of 1985,
11 the budgetary effects of this title shall be estimated for
12 purposes of section 251 of such Act.

13 This title may be cited as the "USMCA Supplemental
14 Appropriations Act, 2019".

Passed the House of Representatives December 19, 2019.

Attest: CHERYL L. JOHNSON,
Clerk.

[Additional material submitted for the record follows:]

THE IMPLEMENTATION ACT FOR THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA (USMCA)

STATEMENT OF ADMINISTRATIVE ACTION

This Statement of Administrative Action ("Statement") is submitted to the Congress in compliance with section 106(a)(1)(E)(ii) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 ("Trade Priorities Act") and accompanies the implementing bill for the Agreement Between the United States of America, the United Mexican States, and Canada ("Agreement" or "USMCA"). The bill approves and makes statutory changes strictly necessary or appropriate to implement the Agreement, which is 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 (the "Protocol"), which the United States Trade Representative signed in Buenos Aires, Argentina on November 30, 2018, and which was amended by the Protocol of Amendment to the Agreement Between the United States of America, the United Mexican States, and Canada (the "Amended Protocol"), which the United States Trade Representative signed in Mexico City, Mexico on December 10, 2019.

As is the case with Statements of Administrative Action submitted to the Congress in connection with implementing bills for other free trade agreements approved under trade promotion authority procedures, this Statement represents an authoritative expression by the Administration concerning its views regarding the interpretation and application of the Agreement, both for purposes of U.S. international obligations and domestic law. The Administration understands that it is the expectation of the Congress that future administrations will observe and apply the interpretations and commitments set out in this Statement. In addition, because Congress will approve this Statement when it approves the implementing bill for the Agreement, the interpretation of the USMCA included in this Statement carries particular authority.

This Statement describes significant administrative actions proposed to implement U.S. obligations under the USMCA. In addition, incorporated into this Statement are two other statements required under section 106(a)(2)(A) of the Trade Priorities Act: (1) an explanation of how the implementing bill and proposed administrative action will change or affect existing law; and (2) a statement setting forth the reasons why the implementing bill and proposed administrative action are strictly necessary or appropriate to carry out the Agreement.

Section 106(a)(2)(A)(ii)(bb) of the Trade Priorities Act also requires a statement regarding whether and how the agreement changes provisions of an agreement previously negotiated. In May 2017, the United States Trade Representative notified Congress of the President's intent to enter into negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA), which has been in force since January 1994. As set out in paragraph 1 of the Protocol, the USMCA will supersede the NAFTA once it enters into

force. Certain transitional provisions provided for in the USMCA are intended to ensure a smooth transition from one agreement to another.

Although the USMCA is a comprehensive overhaul of the NAFTA, many provisions of NAFTA are replicated so that the treatment the United States has committed to provide to Canada and Mexico remains the same. For example, with respect to industrial goods and textiles, the USMCA preserves the duty free treatment that had been achieved under the NAFTA. Some provisions of the NAFTA have been reproduced in the USMCA with no changes, for example with respect to temporary entry for business persons, and review and dispute settlement in antidumping and countervailing duty matters. Others have been reproduced with minimal changes, for example on duty drawback, the merchandise processing fee, origin procedures, and customs measures. However, the USMCA contains significant updates to many disciplines and adds disciplines in areas that were not covered by the NAFTA. Significantly, it includes robust labor and environment chapters as integral parts of the Agreement, rather than separate supplemental agreements. The USMCA also implements significant changes to the rules of origin for automotive goods compared to NAFTA, as well as changes to the rules for other products, in order to reflect the structure of current supply chains and incentivize additional production in the North American region, and in particular the United States. In addition, it includes disciplines to address new issues not dealt with in NAFTA, such as digital trade and state-owned enterprises.

Each USMCA Party affirms its existing rights and obligations with respect to each other under other existing international agreements.

For ease of reference, this Statement generally follows the organization of the Agreement, with the exception of grouping the Protocol and the general provisions of the USMCA (Chapters 1, 29, 30, 32, and 34) at the beginning of the discussion.

For each chapter of the USMCA, the Statement describes the pertinent provisions of the implementing bill, explaining how the bill changes or affects existing law, and stating why those provisions are strictly necessary or appropriate to implement the Agreement. The Statement then describes the administrative action proposed to implement the particular chapter of the Agreement, explaining how the proposed action changes existing administrative practice or authorizes further action and stating why such actions are required to implement the Agreement.

It should be noted that this Statement does not, for the most part, discuss those many instances in which U.S. law or administrative practice will remain unchanged under the Agreement. In many cases, U.S. laws and regulations are already in conformity with the obligations assumed under the Agreement.

Finally, references in this Statement to particular sections of U.S. statutes are based on those statutes in effect as of the date this Statement was submitted to the Congress.

Protocol and Chapters:
1 (Initial Provisions and General Definitions)
29 (Publication and Administration)
30 (Administrative and Institutional Provisions)
32 (Exceptions and General Provisions)
34 (Final Provisions)

1. Implementing Bill

a. Congressional Approval

As required by sections 103(b)(3)(B)(i) and 106(a)(1) of the Trade Priorities Act, Section 101(a) of the implementing bill provides Congressional approval for: the Protocol and the USMCA, which is an Annex to the Protocol; the Protocol Amending the Agreement; and this Statement.

b. Entry into Force

Paragraph 1 of the Protocol provides that upon entry into force of the Protocol, the USMCA, which is attached as an Annex to the Protocol, will supersede the NAFTA. Paragraph 2 of the Protocol provides that each Party shall notify the others, in writing, once it has completed the internal procedures required for the entry into force of the Protocol. The Protocol and the USMCA will enter into force on the first day of the third month following the last notification.

Section 101(b) of the implementing bill authorizes the President to provide written notification to Canada and Mexico that the United States has completed its applicable legal procedures, if the President has determined that Canada and Mexico have taken measures necessary to comply with those of its obligations that are to take effect at the time the Agreement enters into force, and the President provides written notice of this determination to Congress in accordance with section 106(a)(1)(G) of the Trade Priorities Act.

Certain provisions of the USMCA become effective after the Agreement enters into force.

c. Relationship to Federal Law

Section 102(a) of the bill establishes the relationship between the USMCA and U.S. law. The implementing bill, including the authority granted to federal agencies to promulgate implementing regulations, is intended to bring U.S. law fully into compliance with U.S. obligations under the USMCA. The bill accomplishes that objective with respect to federal legislation by amending existing federal statutes that would otherwise be inconsistent with the Agreement and, in certain instances, by creating entirely new provisions of law.

As section 102(a) of the bill makes clear, those provisions of U.S. law that are not addressed by the bill are left unchanged. In particular, neither the USMCA nor the implementing bill amend section 301 of the Trade Act of 1974. Section 301 authorizes the U.S. Trade Representative to take action, subject to the direction of the President, against acts, policies, or practices that are inconsistent with, or deny benefits under, trade agreements or that are unreasonable, unjustifiable, or discriminatory and burden or restrict U.S. commerce.

Section 102(a) clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law, including provisions of federal law enacted or amended by the bill. Section 102(a) will not prevent implementation of federal statutes consistent with the Agreement, if permissible under the terms of such statutes. Rather, the section reflects the Congressional view that necessary changes in federal statutes should be specifically enacted rather than provided for in a blanket preemption of federal statutes by the USMCA.

The Administration has made every effort to include all laws in the implementing bill and to identify all administrative actions in this Statement that must be changed or adopted in order to conform with the new U.S. rights and obligations arising from the USMCA. The latter include both regulations resulting from statutory changes made in the bill itself and changes to regulations, rules, and orders that can be implemented without a change in the underlying U.S. statute.

Accordingly, at this time it is the expectation of the Administration that no changes in existing federal law, rules, regulations, or orders -- other than those specifically indicated in the implementing bill and this Statement -- will be required to implement the new international obligations that the United States will assume under the USMCA. This is without prejudice to the President's continuing responsibility and authority to carry out U.S. law and agreements. As experience under the USMCA is gained over time, other or different administrative actions may be taken in accordance with applicable law to implement the Agreement. If additional action is called for, the Administration will seek legislation from Congress or, if a change in regulation is required, follow normal agency procedures for amending regulations.

d. Relationship to State Law

The USMCA's obligations generally cover state and local laws and regulations, as well as those at the federal level. There are a number of exceptions to, or limitations on, this general rule, however, such as in the areas of government procurement, labor, environment, investment, cross-border trade in services, and financial services.

The Agreement does not automatically "preempt" or invalidate state laws that do not conform to the Agreement's rules, even if a dispute settlement panel were to find a state measure inconsistent with the Agreement. The United States is free under the Agreement to determine

how it will conform with the Agreement's obligations at the federal and non-federal level. The Administration is committed to carrying out U.S. obligations under the USMCA, as they apply to the states, through the greatest possible degree of state-federal consultation and cooperation.

Section 102(b)(1) of the bill makes clear that only the United States is entitled to bring an action in court in the event of an unresolved conflict between a state law, or the application of a state law, and the USMCA. The authority conferred on the United States under this paragraph is intended to be used only as a "last resort," in the unlikely event that efforts to achieve consistency through consultations have not succeeded.

The reference in section 102(b)(2) of the bill to the business of insurance is required by virtue of section 2 of the McCarran-Ferguson Act (15 U.S.C. 1012). That section states that no federal statute shall be construed to supersede any state law regulating or taxing the business of insurance unless the federal statute "specifically relates to the business of insurance." Certain provisions of the USMCA (for example, Chapter 17 relating to financial services) do apply to state measures regulating the insurance business, although "grandfathering" provisions in Chapter 17 exempt existing inconsistent (*i.e.*, "non-conforming") measures from key rules.

Given the provision of the McCarran-Ferguson Act, the implementing act must specifically reference the business of insurance in order for the USMCA's provisions covering the insurance business to be given effect with respect to state insurance law. Insurance is otherwise treated in the same manner under the USMCA and the implementing bill as other financial services under the USMCA.

e. Private Lawsuits

Section 102(c) of the implementing bill precludes any private right of action or remedy against the federal government, a state or local government, or against a private party, based on the provisions of the USMCA. A private party thus could not sue (or defend a suit against) the United States, a state, or a private party on grounds of consistency (or inconsistency) with the Agreement. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the USMCA.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the USMCA. Suits of this nature may interfere with the Administration's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under the USMCA.

Section 102(c) does not preclude the exercise of the right to challenge determinations under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a). Section 102(c) also does not

preclude a private party from submitting a claim against the United States to arbitration under Chapter 14 (Investment) of the USMCA or seeking to enforce an award against the United States issued pursuant to such arbitration. The provision also would not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the USMCA, although any change in agency action would have to be consistent with domestic law.

f. Implementing Regulations

Section 103(a) of the bill provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the USMCA, as of the date of its entry into force. Section 103(b) of the bill requires that, whenever possible, all federal regulations required or authorized under the bill and those proposed in this Statement to implement immediately applicable U.S. obligations under the USMCA are to be developed and promulgated within one year of the Agreement's entry into force. In practice, the Administration intends, wherever possible, to amend or issue the other regulations required to implement U.S. obligations under the USMCA at the time the Agreement enters into force. The process for issuing regulations pursuant to this authority will comply with the requirements of the Administrative Procedures Act, including requirements to provide notice of and an opportunity for public comment on such regulations. If issuance of any regulation will occur more than one year after the date provided in section 103(b), the officer responsible for issuing such regulation will notify the relevant committees of both Houses of Congress of the delay, the reasons for such delay, and the expected date for issuance of the regulation. Such notice will be provided at least 30 days prior to the end of the one-year period.

g. Effective Dates

Section 106(a) of the bill provides that Title I and the first three sections of the bill go into effect on the date the bill is enacted into law.

Section 621(a) provides that during any period in which a country ceases to be a Party to the USMCA, any provision of the bill and the amendments made by the bill cease to have effect with respect to that country. Section 621(b) provides that the provisions of the bill and the amendments to other statutes made by the bill will cease to have effect on the date the USMCA ceases to be in force with respect to the United States.

h. Joint Review

Article 34.7 of the USMCA provides a mechanism for the Parties to conduct a joint review of the Agreement on the sixth anniversary of its entry into force, and for annual reviews thereafter, if a Party does not confirm it wishes to extend the term of the Agreement at such joint review. Section 611 of the bill provides that the U.S. Trade Representative will seek public comment prior to participating in a joint review. In addition, section 611 provides for

consultations between the U.S. Trade Representative and the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate with respect to joint reviews or any annual reviews.

2. Administrative Action

No administrative changes will be necessary to implement Chapter 1 (Initial Provisions), Chapter 29 (Publication and Administration), and Chapter 32 (Exceptions and General Provisions).

a. U.S. Sovereignty

Under the USMCA, U.S. sovereignty and that of the states is fully protected. U.S. laws and regulations will continue to be enacted, administered, enforced, and amended solely by appropriate U.S. entities and authorities. All domestic legislative, judicial, or administrative prerogatives are fully maintained. The USMCA establishes a mechanism for resolving disputes between the USMCA governments. In no case does a finding by a panel established under that mechanism have the force of law in the United States. The appropriate federal and state executive and legislative authorities will decide how to respond under domestic law to any adverse panel finding.

The following administrative actions will be necessary to implement Chapter 30 (Administrative and Institutional Provisions), and Chapter 34 (Final Provisions).

b. Commission and Agreement Coordinator

Article 30.1 of the USMCA establishes a Commission to oversee the implementation of the Agreement and the work of committees and other bodies established under the USMCA. The United States Trade Representative, or his or her designee, will represent the United States on the Commission. Article 30.5 of the USMCA requires each Party to designate an Agreement Coordinator to facilitate communications between the Parties regarding the Agreement. An official with the Office of the United States Trade Representative ("USTR") will serve as the Agreement Coordinator.

Chapter 2 (National Treatment and Market Access for Goods)

1. Implementing Bill

a. Proclamation Authority

Section 103(a) of the bill grants the President authority to implement by proclamation

U.S. rights and obligations under Chapter 2 of the Agreement through the application or elimination of customs duties and tariff-rate quotas ("TRQs") or Tariff Preference Levels ("TPLs"). Section 103(c) authorizes the President to:

(i) modify or continue any duty;

(ii) keep in place duty-free or excise treatment; or

(iii) impose any duty

that the President determines to be necessary or appropriate to carry out or apply Article 2.4 (Treatment of Customs Duties), Article 2.7 (Temporary Admission of Goods), Article 2.8 (Goods Re-Entered After Repair or Alteration), Article 2.9 (Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials), Article 2.10 (Most-Favored-Nation Rates of Duty on Certain Goods), Article 6.2 (Handmade, Traditional Folkloric, or Indigenous Handicraft Goods), Article 6.3 (Special Provisions), and the Tariff Schedule of the United States to Annex 2-B (Tariff Commitments), including the appendices to that Annex, Annex 2-C (Provisions Between Mexico and the United States on Automotive Goods), and Annex 6-A (Special Provisions) and its appendices.

The proclamation authority with respect to Article 2.4 authorizes the President to provide for the continuation, phase-out, and elimination, according to the Tariff Schedule of the United States to Annex 2-B of the USMCA, of customs duties on imports from Canada and Mexico that meet the Agreement's rules of origin.

The proclamation authority with respect to Articles 2.7, 2.8, 2.9, and 2.10 authorizes the President to provide for the elimination of duties on particular categories of imports from USMCA Parties. Article 2.7 pertains to the temporary admission of certain goods, goods intended for display at an exhibition, and goods necessary for carrying out the business activity of a person who qualifies for temporary entry into the United States. Article 2.8 pertains to the importation of goods: (i) returned to the United States after undergoing repair or alteration in a USMCA Party; or (ii) sent from a USMCA Party for repair or alteration in the United States. Article 2.9 pertains to the entry of commercial samples of negligible value and printed advertising materials imported from a USMCA Party. Article 2.10 provides for duty free treatment for certain categories of goods, such as automated processing machines, continuing treatment implemented under NAFTA.

The proclamation authority with respect to Article 6.2 authorizes the President to provide duty-free treatment for certain textile or apparel products that the United States and the exporting USMCA Party agree are within the categories of hand-loomed fabrics of a cottage industry; hand-made cottage industry goods made of those hand-loomed fabrics; traditional folklore handicraft goods; or indigenous handicraft goods, provided that these goods meet any requirements for such duty-free treatment that the United States and the exporting USMCA Party agree.

The proclamation authority with respect to Article 6.3 (Special Provisions) and Annex 6-A (Special Provisions) authorizes the President to provide preferential tariff treatment applicable to originating goods to certain textile and apparel goods from a USMCA Party that do not meet the rules of origin, up to the annual quantities specified in the Appendices to that Annex.

Section 103(c)(2) of the bill authorizes the President, subject to the consultation and layover provisions of section 104 of the bill, to:

(i) modify or continue any duty;

(ii) modify the staging of any duty elimination set out in the U.S. Schedule to Annex 2-B, pursuant to an agreement with another USMCA Party, under Article 2.4;

(iii) keep in place duty-free or excise treatment; or

(iv) impose any duty

by proclamation whenever the President determines it to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to a USMCA Party provided by the Agreement.

Section 104 of the bill sets forth consultation and layover steps that must precede the President's implementation of any duty modification by proclamation. This would include, for example, modifications of duties under section 103(c)(2) of the bill. Under the consultation and layover provisions, the President must obtain the advice of the appropriate private sector advisory committees (established pursuant to section 135 of the Trade Act of 1974) and the U.S. International Trade Commission ("ITC") on the proposed action. The President must submit a report to the Trade Committees setting forth the action proposed, the reasons for the proposed action, and the advice of the private sector and the ITC. The bill sets aside a 60-day period following the date of transmittal of the report for the President to consult with the Trade Committees on the action. Following the expiration of the 60-day period, the President may proclaim the action.

The President may initiate the consultation and layover process under section 104 on enactment of the bill. However, under section 103(a), any modifying proclamation cannot take effect until the Agreement enters into force. In addition to modifications of customs duties, these provisions apply to other Presidential proclamation authority provided in the bill that is subject to consultation and layover, such as authority to implement a proposal to modify the Agreement's specific rules of origin in accordance with Article 5.18 (Committee on Rules of Origin and Origin Procedures) and Article 6.4 (Review and Revision of Rules of Origin) of the USMCA.

Section 103(c) of the bill provides for the conversion of existing specific or compound rates of duty for various goods to *ad valorem* rates for purposes of implementing the Agreement's customs duty reductions. (A compound rate of duty for a good would be a rate of duty stated, for example, as the sum of X dollars per kilogram plus Y percent of the value of the good).

b. Drawback

Section 208 of the bill implements U.S. commitments under USMCA Article 2.5 (Drawback and Duty Deferral Program) with respect to drawback for goods traded between the Parties to the Agreement.

This section amends section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) to provide exceptions to the limitation on drawback implemented in NAFTA for certain goods traded between the Parties to the Agreement. This amendment includes conforming terminology changes and references to provisions of the USMCA, as well as changes to the exception for sugar to reflect new tariff nomenclature. This section also amends sections 311, 312, 313, and 562 of the Tariff Act of 1930 (19 U.S.C. 1311, 1312, 1313, and 1562) which provide that drawback with respect to goods imported into the United States and subsequently exported to the territory of another Party, used in the production of a good exported to another Party, or substituted by goods used in the production of a good exported to another Party, be limited to the lesser of the duties paid or owed upon importation into the United States, or the duties paid on the good to another Party. The amendments make conforming terminology changes with respect to the limitation on drawback implemented in NAFTA relating to bonded manufacturing warehouses, bonded smelting and refining warehouses, substitution drawback, and manipulation in bonded warehouses. This section also amends section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c), to make conforming terminology changes regarding the limitation on drawback as provided under the Foreign Trade Zones Act.

c. Merchandise Processing Fee

Section 203 of the bill implements U.S. commitments under USMCA Article 2.16.3 and Annex 6-A, regarding waiver of customs user fees on certain goods. Article 2.16.3 maintains the treatment that was provided under the NAFTA with respect to originating goods of Canada or Mexico. In Annex 6-A, the United States agreed to waive the merchandise processing fee for textile or apparel goods of Canada or Mexico that are imported under a Trade Preference Level (TPL). Section 203 implements these commitments by amending section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

d. Country of Origin Marking

Section 209 of the bill implements U.S. commitments under paragraph 7 of the General Notes to the Tariff Schedule of the United States, by amending section 304 of the Tariff Act of 1930 (19 U.S.C. 1304). Paragraph 7 provides for the applicable tariff treatment if, under Appendix 1 to the Tariff Schedule of the United States, the United States provides different tariff treatment to one USMCA Party than to the other, with reference to whether the good qualifies to be marked as a good of Canada or Mexico. The amendment makes conforming terminology

changes with respect to provisions regarding marking of goods of Canada or Mexico.

2. Administrative Action

a. Regulations

As discussed above, section 103(c) of the bill authorizes the President to proclaim duty-free treatment for certain goods to carry out Article 2.7 (Temporary Admission of Goods), Article 2.8 (Goods Re-entered after Repair or Alteration), Article 2.9 (Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials), and Article 2.10 (Most-Favored-Nation Rates of Duty on Certain Goods) of the USMCA, and to proclaim the continuation, phase-out, and elimination of customs duties if there are tariff differentials among USMCA Parties and the related rules of origin, as set out in Annex 2-B. The Secretary of the Treasury will issue regulations to carry out this portion of the proclamation.

Chapter 3 (Agriculture)

1. Implementing Bill

a. Exemption from Special Agricultural Safeguard Measures

Section 202 of the bill amends section 405 of the Uruguay Round Agreements Act (19 U.S.C. 3602). The amendment will provide for exemption from any duty imposed under the special agricultural safeguard authority for goods from Canada or Mexico that qualify for preferential treatment under the USMCA. This amendment is necessary to comply with Article 3.9 of the USMCA.

2. Administrative Action

Article 3.7 (Committee on Agricultural Trade) establishes an inter-governmental Committee on Agricultural Trade ("Agriculture Committee") composed of government representatives of each Party. As under NAFTA, an official in USTR's Office of Agricultural Affairs will serve as the U.S. representative to the Agriculture Committee.

Article 3.13 (Contact Points) provides that each Party shall designate and notify a contact point for sharing of information on matters related to agricultural biotechnology. An official in USTR's Office of Agricultural Affairs will serve as the contact point for the United States.

Article 3.16 (Working Group for Cooperation on Agricultural Biotechnology) establishes an inter-governmental working group for information exchange and cooperation on policy and trade-related matters associated with products of agricultural biotechnology. An official in USTR's Office of Agricultural Affairs will serve as a co-chair of the Working Group.

Article 3.A.2 (Tariff Rate Quota Administration) provides that Canada and the United States shall designate and notify a contact point to facilitate communications between the two countries on matters relating to the administration of its tariff-rate quotas. An official in USTR's Office of Agricultural Affairs will serve as the contact point.

Paragraph 10 of Annex 3-B (Agricultural Trade Between Mexico and the United States) establishes an inter-governmental technical working group between Mexico and the United States to review matters related to agricultural grade and quality standards, technical specifications, and other standards in Mexico and the United States and their application and implementation insofar as they affect trade between the two countries. An official in USTR's Office of Agricultural Affairs will serve as a co-chair of the technical working group.

Chapter 4 (Rules of Origin) and Chapter 5 (Origin Procedures)

1. Implementing Bill

a. General

Section 202 of the implementing bill codifies the general rules of origin set forth in Chapter 4 (Rules of Origin) of the USMCA. These rules apply only for the purposes of this bill and for the purposes of implementing the customs duty treatment provided under the Agreement. An originating good for the purposes of this bill would not necessarily be a good of, or import from, a USMCA Party for the purposes of other U.S. laws or regulations.

Under the general rules, there are four basic ways for a good of a USMCA Party to qualify as an "originating" good, and therefore be eligible for preferential treatment when it is imported into the United States. First, a good is "originating" if it is wholly obtained or produced entirely in the territory of one or more USMCA Parties as established in Article 4.3 of the Agreement and defined in section 202(a)(4) of the bill. This includes, for example, minerals extracted from the territory of one or more USMCA Parties, animals born and raised in the territory of one or more USMCA Parties, and waste and scrap derived from production of goods that takes place in the territory of one or more of the USMCA Parties or derived from used goods collected there that are fit only for the recovery of raw materials.

Second, the general rules of origin provide that a good is "originating" if the good is produced entirely in the territory of one or more USMCA Parties, using non-originating materials, provided that the resulting good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin). Such requirements include, for example, non-originating materials meeting change in tariff classification requirement, or the good meeting a regional value content or processing requirement. These requirements also include those provided for in the Appendix to Annex 4-B, Provisions Related to the Product Specific Rules of Origin for

Automotive Goods. Some product-specific rules in those Annexes have multiple requirements.

Third, the general rules of origin provide that a good is "originating" if the good is produced entirely in the territory of one or more USMCA Parties exclusively from materials that themselves qualify as originating.

Fourth, under Article 4.2(d) (Originating Goods), the change in tariff classification requirement is supplemented, in sectors other than goods of Chapters 61 through 63 of the Harmonized Tariff Schedule (HTS), by a rule conferring origin based on a percentage of regional value content if, as a result of classification of the good and materials in the same heading, the rule of origin in Annex 4-B could not confer origin.

Article 4.4 (Treatment of Recovered Materials Used in the Production of a Remanufactured Good) of the Agreement provides that a recovered material qualifies as "originating" for the purposes of determining whether a remanufactured good is originating if it is derived in the territory of one or more USMCA Parties and it is used in the production of and incorporated into the remanufactured good. A recovered material is one or more parts resulting from the disassembly of used goods that are brought into sound working condition through necessary cleaning, inspecting, testing, or other processing. A remanufactured good is an originating good only if it satisfies the applicable product-specific rule of origin. The term "remanufactured good" is separately defined in section 202(a)(19) to mean a good falling within Chapters 84 through 90 of the HTS or heading 94.02 (except goods classified under certain headings and subheadings in chapters 84, 85, or 87) that is entirely or partially composed of recovered materials, has a similar life expectancy and performs the same as or similar to such a good when new and has a factory warranty similar to such a good when new.

The remainder of section 202 of the implementing bill sets forth specific rules related to determining whether a good meets the Agreement's requirements to qualify as an originating good. While many of these rules are similar in structure to rules in previous U.S. Free Trade Agreements, the USMCA also includes new requirements, such as those found in the Appendix to Annex 4-B of the Agreement concerning the rules for automotive goods. Section 202A sets forth procedures to certify and verify the requirements regarding steel and aluminum purchases and Labor Value Content in that Appendix. Section 202A directs the Trade Representative to establish procedures and requirements to implement the Alternative Staging provided for under Article 8 of the Appendix and requires Trade Representative, in consultation with other agencies, to review the operation of the USMCA with respect to trade in automotive goods.

Section 202(f) provides that a good is not disqualified as an originating good if it contains *de minimis* quantities of non-originating materials that do not undergo an applicable change in tariff classification. Other provisions in section 202 address exceptions to the *de minimis* provisions for certain agricultural goods, how materials are to be valued when calculating "regional value content," and how to determine whether fungible goods and materials qualify as originating.

Section 202(l) allows an originating good to be shipped through a non-Party without losing its status as an originating good, provided certain conditions are met. While in a non-Party, the good may not undergo further operations except operations like unloading, reloading, storing, labeling and marking required by a USMCA Party, or any other operation necessary to preserve the good in good condition or transport the good to the importing USMCA Party. The good must also remain under customs control while in that non-Party.

Section 202(l) recognizes that, in modern commerce, a good may not be directly shipped from another USMCA Party to the United States or vice versa; for example, shipments may be consolidated at an interim port. At the same time, in order to ensure that the preferential tariff treatment under the Agreement goes to producers in USMCA Parties, rather than producers in third countries, the USMCA limits the operations on the good that are permitted in non-Parties for it to retain its originating status and requires that the good remain under customs control while in the non-Party.

b. Proclamation Authority

Section 103(c)(5) of the bill authorizes the President to proclaim the specific rules of origin in Annex 4-B (Product-Specific Rules of Origin), including the Appendix to Annex 4-B (Provisions Related to the Product Specific Rules of Origin for Automotive Goods), and any additional subordinate rules necessary to carry out the customs duty provisions of the bill consistent with the Agreement. In addition, section 103(c)(5) gives authority to the President to modify certain specific origin rules in the Agreement by proclamation, subject to the consultation and layover provisions of section 104 of the bill. (See item 1.a under the discussion of Chapter 2, above).

Section 103(c)(5)(B)(ii) of the bill limits the President's authority to modify by proclamation specific rules of origin pertaining to textile or apparel goods. Those rules of origin may be modified by proclamation within one year of enactment of the implementing bill, to correct typographical, clerical, or other non-substantive technical errors. In addition, changes to textile and apparel rules for reasons of availability of fibers, yarns, or fabrics in the USMCA region can be proclaimed subject to the consultation process described in Article 6.4 (Review and Revision of Rules of Origin) of the USMCA.

c. Disclosure of Incorrect Information and Suspension of Preferential Treatment

Article 5.4 of the USMCA (Obligations Regarding Importation) provides that a USMCA Party shall not penalize an importer that invalidly claims preferential tariff treatment under the Agreement if the importer on becoming aware that such claim is not valid and prior to the Government's discovery of the error voluntarily corrects the claim and pays any customs duty

owing, subject to exceptions provided for in the Party's law. Pursuant to Article 5.9 of the USMCA (Origin Verification), if verifications of 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 its territory qualifies as an originating good, the importing Party may withhold preferential tariff treatment to identical goods imported, exported, or produced by that person until that person demonstrates that the identical goods qualify as originating.

Section 204(a) of the bill implements Article 5.4 for the United States by amending section 592(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1592(c)). Section 204(b) of the bill implements Article 5.9 for the United States by amending section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514).

d. Claims for Preferential Tariff Treatment

Article 5.11 of the USMCA (Refunds and Claims for Preferential Tariff Treatment after Importation) provides that an importer may claim preferential tariff treatment for an originating good within one year of importation, even if a claim was not made at the time of importation, provided that the good would have qualified for preferential tariff treatment at the time of importation. In seeking a refund for excess duties paid, the importer may be asked to provide to the customs authorities a certification of origin and any other information substantiating that the good was in fact an originating good at the time of importation.

Section 205 of the bill implements U.S. obligations under Article 5.11 of the USMCA by amending section 520(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1520(d)) to allow an importer to claim preferential tariff treatment for originating goods within one year of their importation.

e. Certifications of Origin

Article 5.2 of the USMCA (Claims for Preferential Treatment) provides that an importer may base a claim for preferential tariff treatment on a certification of origin completed by the importer, exporter, or producer. As an exception, under Article 5.5 (Exception to Certification of Origin), a USMCA Party cannot require a certification of origin if the customs value of the importation does not exceed $1,000 (or the equivalent amount in domestic currency) or it is a good for which the USMCA Party has waived the requirement for certification, except in such circumstances where a series of importations may reasonably be considered to have been undertaken or arranged for the purpose of evading compliance with the importing Party's laws, regulations, or procedures governing claims for preferential tariff treatment.

Article 5.3 (Basis of a Certification of Origin) sets out the basis of a certification. If the producer completes a certification of origin of a good, the certification is completed on the basis of the producer having information that the good is originating. If an exporter completes a certification of origin, it must either be based on the person's knowledge that the good is

originating or reasonable reliance on the producer's information that the good is originating. If the importer completes a certification of origin, it must be on the basis of the importer having documentation that the good is originating or reasonable reliance on supporting documentation provided by the exporter or producer that the good is originating.

Article 5.6 (Obligations Regarding Exportations) sets out rules governing incorrect certifications of origin issued by exporters or producers. If an exporter or producer becomes aware that a certification of origin contains or is based on incorrect information, it must promptly notify in writing every person and every Party to whom the exporter or producer issued the certification of any change that could affect the accuracy or validity of the certification.

Section 204(a) of the bill implements U.S. obligations under Article 5.6 by amending section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592). New subsection (f) of section 592, as added by section 204(a), imposes penalties on exporters and producers that issue false USMCA certifications of origin through fraud, gross negligence, or negligence.

f. Record Keeping Requirements

Article 5.8 of the USMCA (Record Keeping Requirements) sets forth record keeping requirements that each USMCA Party must apply to its importers. U.S. obligations under Article 5.8 regarding importers are satisfied by current law, including the record keeping provisions in section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508).

Article 5.8 also sets forth record keeping requirements that each Party must apply to exporters and producers issuing certifications of origin for goods exported under the Agreement. Section 206 of the bill implements Article 5.8 as it relates to exporters and producers for the United States by amending the customs record keeping statute (section 508 of the Tariff Act of 1930).

As added by section 206 of the bill, subsection (l) of section 508 of the Tariff Act of 1930, as amended defines the terms "USMCA certification of origin" and "records and supporting documents." It then provides that a U.S. exporter or producer that issues a USMCA certification of origin must make, keep, and, if requested pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection a copy of the certification and such records and supporting documents. The exporter or producer must keep these records and supporting documents for five years from the date it issues the certification. Section 508 of the Tariff Act of 1930 also sets forth penalties for violations of this record keeping requirement, which will appear in renumbered subsection (m).

g. Determinations on Claims for Preferential Treatment

Under Article 5.10 (Claims for Preferential Tariff Treatment), the importing Party must grant a claim for preferential tariff treatment made in accordance with Chapter 4 of the

Agreement, except in the instances set forth in Article 5.10.2 or Article 6.7 (Determinations) of the USMCA. Articles 5.10.2 and 6.7 provide the circumstances when an importing Party may deny a claim for preferential tariff treatment. Such circumstances include when the importing Party determines that the good does not satisfy the rules of origin or the information is not sufficient to make a positive determination, when the importer, exporter, or producer does not respond to a request for information or the exporter or producer does not consent to a visit, and when the importer, exporter, or producer fails to comply with any requirement of Chapter 4, the Rules of Origin Chapter. Section 208 implements these obligations.

2. Administrative Action

The rules of origin in Chapter 4 of the USMCA are intended to direct the benefits of customs duty elimination under the Agreement principally to firms producing or manufacturing goods in USMCA Parties. The rules ensure that, in general, a good is eligible for benefits under the Agreement only if it is: (i) wholly produced or obtained in the territory of one or more USMCA Parties, or (ii) undergoes substantial processing in the territory of one or more USMCA Parties as set out in the USMCA, including the product-specific rules of origin.

a. Claims for Preferential Treatment

Section 210 of the bill authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the tariff-related provisions of the bill, including the rules of origin and customs user fee provisions. The Secretary will use this authority in part to promulgate any regulations necessary to implement the Agreement's provisions governing claims for preferential treatment. As noted above, Article 5.3 of the USMCA (Basis of a Certification of Origin) sets out the basis on which an importer, exporter, or producer may complete a certification of origin. A certification need not be in a prescribed format, but must include the elements set out in that article. Under Article 5.7 (Errors and Discrepancies), a Party may not reject a certification of origin based on minor errors or discrepancies in the certification of origin. Article 5.2 (Claims for Preferential Tariff Treatment) provides that a Party can require that a certification of origin must be separate from the invoice if the invoice is issued in a non-Party.

b. Verification

Under Article 5.9 of the USMCA (Origin Verification), an importing USMCA Party may use a variety of methods to verify claims that goods imported from another USMCA Party satisfy the USMCA's rules of origin. The importing USMCA Party may request information from the importer, exporter, or producer of the good, conduct a visit to the premises of the exporter or producer, or use other methods as may be decided by the importing Party and the Party where the exporter or producer is located. Section 207 of the bill implements U.S. obligations under Article 5.9.16 by providing that U.S. customs authorities must seek information from the exporter or producer before denying a claim for preferential tariff treatment when conducting a verification though an importer that based the claim on a certification of

origin completed by the exporter or producer. In addition, Article 6.6 (Verification) sets out special procedures for verifying claims that textile or apparel goods imported from another USMCA Party meet the Agreement's origin rules or by conducting a visit to an exporter or producer with respect to customs offenses. U.S. officials will carry out verifications under Articles 5.9 and 6.6 of the USMCA pursuant to authorities under current law, including inquiries and visits to U.S. importers, exporters, and producers. For example, section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides authority to examine records and issue summonses to determine liability for duty and ensure compliance with U.S. customs laws.

c. Automotive Goods

The USMCA sets forth specific provisions related to the automotive sector, including the rules of origin in the Appendix to Annex 4-B (Provisions Related to the Product Specific Rules of Origin for Automotive Goods). The Appendix covers new requirements for passenger vehicles and trucks to be eligible for preferential treatment, including stronger product-specific rules for vehicles and vehicle parts and a requirement that certain core parts used in the production of a vehicle be originating. The Appendix eliminates NAFTA's "tracing" provisions. It also includes new requirements that vehicle producers' purchases of steel and aluminum have a minimum percentage of originating steel and aluminum.

The USMCA rules also require that vehicle producers source a significant share of content from North American plants or facilities that, on average, pay direct production workers at least $16 per hour, also known as a Labor Value Content requirement. The Labor Value Content requirement, when combined with the core parts and other requirements in the Product Specific Rules, will incentivize U.S. jobs and facilitate U.S. development and manufacture of high-technology parts, such as advanced batteries.

The Appendix includes provisions to facilitate the transition in the sector to meet the above requirements of the USMCA, including alternative staging, and provisions to ensure that the USMCA rules remain relevant to the sector and continue to promote U.S. and North American competitiveness, investment, and jobs in light of new technology and the changing composition and character of automobiles.

Section 213 of the bill will authorize the development of regulations and other guidelines to carry out these provisions. Such regulations and guidelines will help facilitate implementation of the rules of origin with automotive producers and other stakeholders. Specifically, Section 210 of the bill will authorize the Secretaries of Treasury and Labor to prescribe regulations necessary to carry out certain provisions of the bill with respect to the Labor Value Content requirement in the Appendix. Section 202A(c)(2)(C) will also authorize the Secretary of Treasury to prescribe regulations relating to purchases of originating steel and aluminum. Such regulations would supplement customs regulations to facilitate the implementation of other product-specific rules for vehicles and vehicle parts.

To facilitate the transition to these new requirements and ensure effective coordination with U.S. agencies and with stakeholders in implementing such requirements, the President will issue an Executive Order establishing an interagency committee, led by the United States Trade Representative with participation by other relevant agencies, such as the Department of Commerce, the U.S. Customs and Border Protection, the U.S. International Trade Commission, and the Department of Labor. This Committee will issue guidelines to facilitate implementation and enforcement of provisions of the USMCA related to automotive goods. The Committee will also review the operation of the agreement with respect to trade in automotive goods, to ensure that the Agreement's provisions remain relevant in light of changes in technology and vehicle content, and facilitate the use of originating auto parts, as prescribed under the Appendix.

Chapter 6 (Textiles and Apparel)

1. Implementing Bill

a. Proclamation Authority

Section 103(c)(5)(B) of the implementing bill grants the President authority to proclaim modifications to the HTS regarding textile and apparel products in order to put into effect USMCA's textile and apparel provisions, including Tariff Preference Levels (TPLs) and preferential tariff treatment for handmade, traditional folkloric, or indigenous handicraft goods provided for under Article 6.2 (Handmade, Traditional Folkloric, or Indigenous Handicraft Goods) of the USMCA. Section 103(c)(5)(B)(ii) grants the President authority to proclaim modifications to the rules of origin in the USMCA based on issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties, subject to the layover and consultation provisions of section 104. Section 103(c)(5)(B) provides that no modifications can be made to the rules of origin for products covered by chapters 50 through 63 of the HTS.

b. Enforcement of Textile and Apparel Rules of Origin

The USMCA includes verification provisions designed to ensure the accuracy of claims of origin and to detect and address violations of the Agreement and of customs laws and regulations. In addition to the general verification provisions in Chapter 5 (Rules of Origin Procedures), Article 6.6 of the Agreement (Verification) provides for verifications and in particular visits to exporters and producers of textile and apparel goods, to determine the accuracy of claims of origin for textile or apparel goods, and to determine that exporters and producers are complying with customs laws, regulations, and procedures regarding trade in textile or apparel goods.

Under Article 6.6, the United States may conduct a verification of whether a textile or apparel good qualifies for preferential tariff treatment by using the procedures that apply for goods that are not textile or apparel goods (under Article 5.9 (Origin Verification)) or through a

site visit to a textile or apparel exporter or producer. In a site visit to a textile or apparel exporter or producer, the United States may verify whether a textile or apparel good qualifies for preferential tariff treatment or customs offenses are occurring or have occurred.

Under Article 6.6.11, if verifications of identical goods indicate a pattern of conduct by an exporter or producer of making false or unsupported representations that a good imported into the United States qualifies for preferential tariff treatment, the United States may withhold that preferential treatment for identical textile or apparel goods imported, exported, or produced by that person until it is demonstrated to the United States that the identical goods qualify for preferential tariff treatment. In addition, under Article 6.7 (Determinations), the United States may deny a claim for preferential tariff treatment for a textile or apparel good: (i) for the reasons listed in Article 5.10 (see description above); (ii) if it has not received sufficient information to determine that the good qualifies as originating; or (iii) if access or permission for a site visit is denied, U.S. officials are prevented from completing the visit on the proposed date and an acceptable alternative is not provided, or the exporter or producer does not provide access to the relevant records or facilities during a site visit.

Section 208 of the bill implements Articles 5.9, 5.10, 6.6, and 6.7 of the Agreement. Section 207(a) authorizes the President to direct the Secretary to take "appropriate action" while a verification is being conducted. For textile and apparel goods, the purpose of a verification is to determine the accuracy of a claim for preferential tariff treatment under the Agreement or compliance with applicable customs law. Under section 207(a)(2)(D), appropriate action for a textile and apparel good may include, but is not limited to, suspension of liquidation of entries of textile or apparel goods exported or produced by the person that is the subject of the verification.

Under section 207(c), "action" based on a determination that the good does not qualify for preferential treatment would include denying preferential treatment under the Agreement for the goods subject to the verification.

2. Administrative Action

a. Enforcement of Textile and Apparel Rules of Origin

The President will delegate to the Committee for the Implementation of Textile Agreements (CITA) his authority under the bill to direct appropriate U.S. officials to take an action described in section 207(a)(2)(D) of the bill while such a verification is being conducted. CITA is an interagency entity created by Executive Order 11651 that carries out U.S. textile trade policies as directed by the President. The President will also authorize CITA to direct pertinent U.S. officials to take an action described in section 207(c) in the case of an adverse determination, if sufficient information has not been received to determine if the good qualifies as originating, or if access to exporter or producer sites or relevant information is not made available. If CITA decides that it is appropriate to deny preferential tariff treatment or deny entry to particular goods, CITA will issue an appropriate directive to CBP.

Section 207 of the bill provides the exclusive basis in U.S. law for CITA to direct appropriate action implementing Article 6.6 of the Agreement.

b. Consultations on Rules of Origin

The President will authorize CITA to review and make recommendations on requests to modify a rule of origin for a textile or apparel good under the USMCA. Any interested person may submit to CITA a request for a modification to a rule of origin based on a change in the availability in North America of a particular fiber, yarn, or fabric. The requesting party will bear the burden of demonstrating that a change is warranted. If, on the basis of this consideration, CITA recommends a change to a rule of origin for a textile or apparel good, and the USMCA Parties have agreed following consultations as provided for in the USMCA, the President may proclaim the recommended change under section 103(c)(5), subject to the consultation and layover provisions contained in Section 104 of the bill.

c. Handmade, Traditional Folkloric, and Indigenous Handicraft Goods

The President will authorize CITA to consult with Mexico and Canada to determine which, if any, textile or apparel goods will be treated as handloomed, handmade, folklore, or indigenous handicraft articles. The President will delegate to CITA his authority under the bill to provide duty-free treatment for these articles.

d. Contact Point for Textile and Apparel Matters

Article 6.5 (Cooperation) calls for each USMCA Party to designate a contact point for information exchange and other cooperation with regard to matters under the Textiles and Apparel Chapter. USTR's Office of Textiles will be designated as the U.S. contact point.

Chapter 7 (Customs Administration and Trade Facilitation)

1. Implementing Bill

The USMCA maintains the treatment currently provided under the NAFTA. While no substantive changes to U.S. law are required to implement Chapter 7, conforming changes must be made to maintain the treatment currently provided with respect to a "NAFTA country" in certain provisions of the Tariff Act of 1930, as amended. Section 210 amends the following sections of that Act: (i) section 304(k) (19 U.S.C. 1304(k)) with respect to marking of imported articles and containers; (ii) section 509 (19 U.S.C. 1509) with respect to examination of books and witnesses; and (iii) section 628(c) (19 U.S.C. 1628(c)) with respect to exchange of information.

2. Administrative Action

a. Advance Rulings

No substantive changes to authority and practice are required to implement the USMCA provisions on advance rulings as the Treasury regulations for advance rulings under Article 7.5 (Advance Rulings) (including on classification, valuation, origin, and qualification as an originating good) will parallel in most respects existing regulations in Part 177 of the CBP Regulations (19 C.F.R. Part 177) for obtaining advance rulings. For example, a ruling may be relied on provided that the facts and circumstances represented in the ruling are complete and do not change. The regulations will make provision for modifications and revocations as well as for delaying the effective date of a modification where the firm in question has relied on an existing ruling. Advance rulings under the USMCA will be issued within 150 days of receipt of all information reasonably required to process the application for the ruling.

b. Enquiry Point and Communication with Traders

Article 7.4 (Enquiry Points) requires each USMCA Party to designate or maintain an enquiry point for inquiries from interested persons concerning importation, exportation, or transit procedures. CBP will serve as the U.S. enquiry point for this purpose. Consistent with Article 7.2 (Online Publication), CBP will post information on the Internet at www.cbp.gov on how interested persons can make customs-related inquiries. CBP also will post information for traders on its mechanism to communicate on its procedures to give traders and opportunity to raise emerging issues and provide views as required by Article 7.3 (Communication with Traders).

c. Contact Point for Cooperation and Enforcement relating to USMCA

Article 7.26 (Exchange of Specific Confidential Information) requires each Party to designate or maintain a contact point for cooperation under Section B of the Chapter, Cooperation and Enforcement. USTR will be the designated USMCA contact point.

Chapter 8 (Recognition of the United Mexican States' Direct, Inalienable, and Imprescriptible Ownership of Hydrocarbons)

The United States does not have any obligations under this Chapter. No statutory or administrative changes will be required to implement Chapter 8.

Chapter 9 (Sanitary and Phytosanitary Measures)

1. Implementing Bill

No statutory changes are required to implement Chapter 9. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 9.5 (Competent Authorities and Contact Points) provides that each Party shall provide to the other Parties a list of its central level of government competent authorities. On request of a Party, and, if applicable, a Party shall provide contact information or written descriptions of the sanitary and phytosanitary responsibilities of its competent authorities.

Article 9.5 provides that each Party shall designate and notify a contact point for SPS matters. An official in USTR's Office of Agricultural Affairs will serve as the contact point for the United States, as was the practice under the NAFTA.

Article 9.13.5 provides that a USMCA party should normally allow at least 60 days for another USMCA party to comment on an SPS measure, other than legislation, that affects international trade. This is consistent with existing U.S. policy as reflected in Executive Order 12889. The Administration will ensure that the appropriate notice and comment periods continue under USMCA.

Article 9.17 (Committee on Sanitary and Phytosanitary Measures) establishes an inter-governmental Committee on Sanitary and Phytosanitary Measures ("SPS Committee") composed of government representatives of each Party. An official in USTR's Office of Agricultural Affairs will serve as the U.S. representative to the SPS Committee. USTR will coordinate with other agencies with relevant responsibility, including U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), and the National Oceanic and Atmospheric Administration (NOAA).

Chapter 10 (Trade Remedies)

1. Implementing Bill

a. Relief from Global Safeguard Measures

Article 10.2 of the USMCA, which replicates Article 802 of the NAFTA, provides that a Party shall exclude imports of a good from each other Party from global safeguard actions subject to certain conditions. Sections 301 and 302 of the bill implement Article 10.2 by maintaining the treatment provided in sections 311 and 312 of the North American Free Trade

Agreement Implementation Act (19 U.S.C. 3371 and 3372) authorizing the President, in granting global import relief under sections 201 through 204 of the Trade Act of 1974, to exclude imports of a Canadian or a Mexican good when certain conditions are present.

Specifically, section 301(a) replicates section 311 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371) by requiring the ITC to make special findings with respect to imports from Canada or Mexico if the ITC makes an affirmative determination in a global safeguard action investigation under section 202(b) of the Trade Act of 1974. The ITC must find whether:

(i) imports of the good from Canada or Mexico, considered individually, account for a "substantial share" of total imports; and

(ii) imports of the good from Canada or Mexico, considered individually or, in exceptional circumstances, import from Canada or Mexico considered collectively, "contribute importantly" to the serious injury, or threat thereof, caused by imports.

The term "contribute importantly" is defined to mean "an important cause, but not necessarily the most important cause".

The ITC normally will not consider imports from Canada and Mexico to constitute a "substantial share" of total imports if the country is not among the top five suppliers of the product subject to the investigation, measured in terms of import share during the most recent three-year period. Nor will imports from Canada and Mexico, individually or collectively, normally be considered to contribute importantly to serious injury or the threat of serious injury if the growth rate of imports from Canada and Mexico, individually or collectively, during the period in which the injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period. In determining whether imports from Canada and Mexico, individually or collectively, "contribute importantly" to the serious injury or threat thereof, the ITC is to consider such factors as the change in the import shares from Canada and Mexico, individually or collectively, and the level and change in the level of imports from Canada and Mexico.

As the use of the modifier "normally" makes clear, there will likely be instances when it is appropriate for the ITC to find that Canada or Mexico accounts for a substantial share of total imports even though the country is not one of the top five suppliers. For example, when there is little difference between the share of the fifth-place supplier and those that fall below fifth-place, or there are many suppliers, each accounting for a substantial share, the sixth- or seventh-place supplier may nevertheless account for a substantial share of imports. Similarly, a growth rate in imports from Canada or Mexico that is appreciably lower than the growth rate from all sources would not necessarily be determinative of whether imports from Canada or Mexico contribute importantly to the serious injury or threat thereof. In addition, the ITC is likely to consider

imports from Canada and Mexico collectively when imports from them individually are each small in terms of import penetration, but collectively are found to contribute importantly to the serious injury or threat thereof.

Section 302 replicates section 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3372) by providing that the President must exclude a Canadian or Mexican good from a global safeguard action if the President makes a negative determination that imports from Canada or Mexico account for a substantial share of total imports or imports from Canada or Mexico, individually or collectively, contribute importantly to the serious injury or threat thereof. Section 302 includes a "surge" provision that allows the President to include the previously excluded imports in the action if the President later determines that a surge in imports of the good from the excluded country is undermining the effectiveness of the action. The domestic industry may request the ITC to conduct an investigation to determine whether a surge in imports is undermining the effectiveness of the action. The ITC must submit its findings on the surge investigation to the President no later than 30 days after the request is received.

b. Dispute Settlement in Antidumping and Countervailing Duties

Article 10.5 (Rights and Obligations) and Annex 10-A (Practices Relating to Antidumping and Countervailing Duty Proceedings) provide for greater cooperation and transparency among USMCA Parties in the administration of their antidumping and countervailing duty laws, including online access to laws and regulations that pertain to antidumping and countervailing duty proceedings, sample questionnaires for antidumping proceedings, and electronic files for the record of each proceeding. Annex 10-A (Practices Relating to Antidumping and Countervailing Duty Proceedings) also provides for the disclosure of verification information, antidumping and countervailing duty rate calculations, and sharing of information about third-country unfair trade practices. U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

c. Cooperation on Preventing Duty Evasion of Trade Remedy Laws

Articles 10.6 (General) and 10.7 (Duty Evasion Cooperation) provide for cooperation on the prevention of duty evasion of trade remedy laws, including the exchange of information between respective authorities and the opportunity to conduct a duty evasion verification in the territory of another USMCA Party. U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

Section 401 of the bill amends section 414 of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4374) to provide that Canada and Mexico shall be deemed countries signatory to a bilateral agreement, as provided for in subsection (b) of section 414, for purposes of trade enforcement and compliance assessment activities of U.S. customs authorities that concern evasion by such country's exports.

d. Dispute Settlement in Antidumping and Countervailing Duty Cases

Articles 10.8 through 10.18 and Annexes 10-B.1 through 10-B.5 of the USMCA replicate Chapter 19 of the NAFTA, providing, among other things, for binational review and dispute settlement in antidumping and countervailing duty matters. Section 501 of the bill implements Article 10.12 (Review of Final Antidumping and Countervailing Duty Determinations), which replicates Article 1904 of the NAFTA, Article 10.13 (Safeguarding the Panel Review System), and Annex 10-B.5 (Amendments to Domestic Laws). This section replicates the amendments enacted in Pub. Law 103-182 to implement Chapter 19 of the NAFTA, adding the relevant provisions of Chapter 10 of the USMCA. In substance, U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

2. Administrative Action

No changes in administrative regulations, practices, or procedures are required to implement the safeguard, duty evasion, or antidumping and countervailing duty related provisions of Chapter 10. U.S. administrative regulations, practices, and procedures are already in conformity with the obligations assumed under the Chapter.

Chapter 11 (Technical Barriers to Trade)

1. Implementing Bill

No statutory changes will be required to implement Chapter 11. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 11.11 (Committee on Technical Barriers to Trade) establishes an inter-governmental Committee on Technical Barriers to Trade ("TBT Committee") composed of government representatives of each Party. A USTR official responsible for TBT matters will serve as the U.S. representative to the TBT Committee.

Article 11.7.4 provides that a USMCA party should normally allow at least 60 days for another USMCA party to comment on a technical regulation, other than legislation, that affects international trade. This is consistent with existing U.S. policy as reflected in Executive Order 12889. The Administration will ensure that the appropriate notice and comment periods continue under USMCA.

Article 11.12 provides that each Party shall designate and notify a contact point for TBT matters. A USTR official responsible for TBT matters will serve as the contact point for the

United States.

Chapter 12 (Sectoral Annexes)

1. Implementing Bill

No statutory changes will be required to implement Chapter 12. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Articles 12.A.3, 12.B.3, 12.D.3, 12.E.3, and 12.F.3 (Competent Authorities) provides that each Party shall publish online a description of each of its central level of government competent authorities that has responsibility for matters covered by that respective sectoral annex as well as a contact point within each competent authority. The United States will meet these obligations by having the relevant competent authority describe its responsibilities and provide a contact point on its respective webpage. The Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), and the Occupational Safety and Health Administration (OSHA) are the competent authorities for purposes of Annex A. The U.S. Food and Drug Administration (FDA) is the competent authority for purposes of Annexes B, D, E, and F.

For pharmaceuticals, Article 12.F.5 (Application of Regulatory Controls) further provides that, upon certification by the competent authority in the United States, the competent authority of the United States shall establish mechanisms with the competent authority in Canada or Mexico, as applicable, to permit the exchange of confidential information relevant to pharmaceutical inspections, including unredacted Good Manufacturing Practice inspection reports. The mechanism in this case would be a confidentiality commitment made by FDA that would allow FDA, at its discretion, to share trade secret and commercial confidential information with the competent authority in Canada or Mexico.

Chapter 13 (Government Procurement)

1. Implementing Bill

Chapter 13 of the USMCA establishes rules that certain government entities listed in Annex 13-A will apply whenever these entities undertake procurements of covered goods and services valued above thresholds specified in Annex 13-A. Chapter 13 applies only as between the United States and Mexico. The United States already had procurement obligations with respect to Mexico under the NAFTA and will continue to have similar obligations under the USMCA. Under USMCA, however, the United States has excluded uniforms and clothing

procurement by the Transportation Security Administration of the Department of Homeland Security from coverage. Once the USMCA enters into force, the United States will continue to have procurement obligations with respect to Canada under the WTO Agreement on Government Procurement and will also have national treatment and most-favored-nation obligations with respect to the purchase or acquisition of financial services by public entities in the United States under the GATS, as set out in the U.S. Schedule of Commitments and the Understanding on Commitments in Financial Services.

Section 301(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2511(a)) (Trade Agreements Act), as amended, authorizes the President to waive for eligible products of foreign countries that the President designates under section 301(b) of that Act the application of certain federal laws, regulations, procedures, and practices that ordinarily treat foreign goods and services and suppliers of such goods and services less favorably than U.S. goods, services, and suppliers. The term "eligible product" in section 301(a) of the Trade Agreements Act is defined in section 308(4)(A) of that Act.

Section 505 of the bill implements U.S. obligations under Chapter 13 by amending the definition of "eligible product" in section 308(4)(A) of the Trade Agreements Act. As amended, section 308(4)(A) will provide that "eligible product" means a product or service of Mexico that is covered under the USMCA for procurement by the United States. This amended definition, coupled with the President's exercise of his waiver authority under section 301(a) of the Trade Agreements Act, will allow U.S. government entities covered by the USMCA to purchase on non-discriminatory terms covered products and services from Mexico for procurements that fall above the thresholds established under the USMCA.

Section 505 of the bill also makes certain conforming changes to the procurement provisions of the Trade Agreements Act of 1979. Sections 301(b)(1) (19 U.S.C. 2511) and 301(e) are amended by replacing the references to the NAFTA with references to the USMCA.

2. <u>Administrative Action</u>

As noted above, Annex 13-A of the USMCA provides that U.S. government entities subject to Chapter 13 must apply the chapter's rules to covered goods and services from Mexico when they make purchases valued above certain dollar thresholds. USTR will notify the Federal Acquisition Regulatory Council ("FAR Council") of the entry into force of the USMCA and the thresholds that pertain to Mexico under the USMCA. The FAR Council will then make the necessary changes to provide for the appropriate treatment for Mexico under the Federal Acquisition Regulation ("FAR") in accordance with applicable procedures under the Office of Federal Procurement Policy Act. The FAR Council will also make the necessary changes to treatment with respect to Canada and Mexico once the NAFTA is no longer in force. Specific changes to the FAR include, removal of Canada from the list of Free Trade Agreement Countries in FAR 25.003, removal of references to NAFTA and addition of USMCA in FAR Subpart 25.4, and removal of Canada from the summary of thresholds in FAR Subpart 25.402. The

Department of Homeland Security will also make changes with respect to the removal of obligations with respect to uniforms and clothing by the Transportation Security Administration.

Article 13.7.5 (Conditions for Participation) clarifies that a procuring entity is not precluded from promoting compliance with laws in the territory in which a good is produced or the service is performed relating to the fundamental principles and rights at work and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Thus, for example, a procuring entity is permitted to require a foreign producer to comply with laws guaranteeing freedom of association and protecting collective bargaining rights that generally apply in the territory in which the good is produced. In addition, Article 13.11 of the USMCA (Technical Specifications) clarifies that a procuring entity is not precluded from preparing, adopting, or applying "technical specifications" to promote the conservation of natural resources or protect the environment.

Finally, neither this provision nor any other provision of Chapter 13 will affect application of the Davis-Bacon Act and related Acts (40 U.S.C. 3141 - 48 and 29 C.F.R. 5.1).

Chapter 14 (Investment)

No statutory or administrative changes will be required to implement Chapter 14. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 15 (Cross-Border Trade in Services)

No statutory or administrative changes will be required to implement Chapter 15. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 16 (Temporary Entry)

1. Implementing Bill

Consistent with the overall trade negotiating objectives under the Trade Priorities Act, the USMCA does not require changes to U.S. immigration laws nor does it change access to visas under section 1101(a)(15) of the Immigration and Nationality Act (INA). The USMCA maintains the same treatment as provided under the NAFTA with respect to the temporary entry of four categories of business persons: business visitors, traders and investors, intra-corporate transferees, and professionals. Section 503 of the implementing bill, makes conforming changes to the NAFTA-specific elements of the INA in order to continue to provide the same treatment to Canada and Mexico as had been provided under the NAFTA, but neither modifies nor expands access to visas issued under the INA.

2. Administrative Action

No administrative changes will be required to implement Chapter 16.

Chapter 17 (Financial Services)

1. Implementing Bill

No statutory changes will be required to implement Chapter 17. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 17.20 (Consultations) sets out that each Party's financial authorities specified in Annex 17-B (Authorities Responsible for Financial Services) shall serve as the contact point to respond to requests and to facilitate the exchange of information regarding the operation of measures covered by those requests. For the United States, the Department of the Treasury is the contact point for the purposes of Annex 17-C (Mexico-United States Investment Disputes in Financial Services) and for all matters involving banking, securities, and financial services other than insurance, and the Department of the Treasury, in cooperation with the Office of the United States Trade Representative, is the contact point for insurance matters.

Chapter 18 (Telecommunications)

No statutory or administrative changes will be required to implement Chapter 18. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 19 (Digital Trade)

No statutory or administrative changes will be required to implement Chapter 19. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 20 (Intellectual Property Rights)

1. Implementing Bill

No statutory changes will be required to implement Chapter 20. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 20.12 (Contact Points for Cooperation) permits a Party to designate one or more contact points for the purpose of cooperation under Section B of Chapter 20. USTR's Innovation and Intellectual Property Office will serve as the contact point for this purpose.

Article 20.14 (Committee on Intellectual Property Rights) establishes an inter-governmental Committee on Intellectual Property Rights ("IPR Committee") composed of government representatives of each Party. An official in USTR's Innovation and Intellectual Property Office will serve as the U.S. representative to the IPR Committee.

Chapter 21 (Competition Policy)

No statutory or administrative changes will be required to implement Chapter 21. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 22 (State-Owned Enterprises and Designated Monopolies)

No statutory or administrative changes will be required to implement Chapter 22. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 23 (Labor)

As noted earlier, one of the significant improvements from NAFTA is the inclusion of the labor disciplines subject to dispute resolution into the core of the USMCA. Paragraph 3 of the Protocol sets out that upon entry into force of the Protocol, the *North American Agreement on Labor Cooperation* (NAALC), shall be terminated. The NAALC established a tri-national Commission for Labor Cooperation, composed of a Ministerial Council and an administrative Secretariat. By agreement of the NAFTA Parties, the NAALC Secretariat ceased operations in 2010, and since then the National Administrative Offices (NAOs) have assumed its duties, including carrying out cooperative activities. (Each NAFTA Party established an NAO within its Labor Ministry to serve as a contact point with the other Parties to the NAALC and to provide for the submission and review of public communications on labor law matters). Chapter 23 includes, and improves upon, the substantive obligations under the NAALC and provides for the continuation of the submission and review process. In addition, the USMCA Labor Chapter includes Annex 23-A, on Worker Representation in Collective Bargaining in Mexico, which establishes specific legislative actions that Mexico must take to reform its system of labor justice and provide for the effective recognition of the right to collectively bargain. To further support compliance with USMCA labor obligations, Annex 31-A of the Dispute Settlement Chapter

establishes a Rapid Response Mechanism between the United States and Mexico that provides for monitoring and expedited enforcement of labor rights in Mexico at particular facilities.

1. Implementing Bill

No statutory changes will be required for the United States to implement its obligations under Chapter 23. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

However, the implementing bill contains provisions to ensure that Mexico and Canada implement their obligations under the Labor Chapter, and contains provisions implementing Annex 31-A specifically to identify labor rights problems in Mexico related to Annex 23-A of the Labor Chapter.

Sections 711 to 718 of the implementing bill require the establishment of an Interagency Labor Committee for Monitoring and Enforcement ("Labor Committee") that shall be responsible for overseeing the implementation of the Labor Chapter including by monitoring Mexico's implementation of the Chapter and Annex 23-A and recommending enforcement actions to the Trade Representative, as warranted. The Labor Committee shall regularly assess Mexico's implementation of, and compliance with, its obligations under the Labor Chapter of the USMCA, including in particular whether it has implemented its labor reform as required under Annex 23-A of the USMCA. If the Labor Committee determines that Mexico is failing to meet its obligations, it shall recommend that the Trade Representative initiate enforcement actions. The Labor Committee will also receive and review petitions from the public regarding USMCA labor matters, and establish a web-based hotline administered by the U.S. Department of Labor, to receive confidential information. The Labor Committee will provide regular reports to the Congress regarding its activities and labor rights issues in Mexico.

Section 719 of the implementing bill requires the Labor Committee to consult with the Labor Advisory Committee, the Advisory Committee for Trade Policy and Negotiations, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives on the appointment of candidates for the list of Rapid Response Panelists under Annex 31-A of the Dispute Settlement Chapter.

Sections 721 to 723 of the implementing bill direct the U.S. Department of Labor to hire and assign five Labor Attaches at the U.S. Embassy or a Consulate in Mexico, to monitor labor rights issues related to the USMCA Labor Chapter and Annex 23-A. The Labor Attaches will regularly report to the Labor Committee and support its monitoring activities.

Sections 731 to 734 of the implementing bill establish an Independent Mexico Labor Expert Board. The Board will monitor and evaluate Mexico's implementation of its labor reform legislation from 2019, as well as compliance with the USMCA labor obligations, and report to the Congress and the Labor Committee. The Board will have 12 members, four appointed by the

Labor Advisory Committee for Trade Negotiations and Trade Policy, and eight appointed by the Congress. The U.S Department of Labor, in coordination with the Labor Committee, will provide logistical support for the Board, as appropriate.

Section 741 to 744 of the implementing bill require the establishment of a Forced Labor Enforcement Task Force, chaired by the U.S. Department of Homeland Security, to monitor enforcement by United States of prohibitions on the importation of goods produced by forced labor under the Tariff Act of 1930. The Task Force will develop a plan for addressing forced labor issues in Mexico, and report its activities and findings to the Labor Committee and the Congress.

Section 751 of the implementing bill requires that all reports of the Rapid Response Labor Panels be provided to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Labor Advisory Committee, as well as a version for the public.

Section 752 and 753 authorize the Trade Representative to direct the Secretary of the Treasury to impose trade remedies or other penalties on goods and services from facilities in Mexico that are found to be out of compliance with USMCA labor obligations per the procedures of the Rapid Response Mechanism established in Annex 31-A.

2. Administrative Action

a. Labor Council

Article 23.14 (Labor Council) of the Agreement establishes a Labor Council, composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party. The Assistant U.S. Trade Representative for Labor Affairs and the Deputy Undersecretary for International Affairs at the U.S. Department of Labor will serve as the U.S. representatives. Article 23.15 (Contact Points) calls for each Party to designate a contact point to address matters related to the Labor Chapter. The Department of Labor's Bureau of International Labor Affairs (ILAB) will serve as the U.S. contact point for these purposes, in regular consultation and coordination with USTR's Office of Labor Affairs.

b. Interagency Labor Committee for Monitoring and Enforcement

Not later than 90 days after the enactment of the implementing bill, the President will establish the interagency Labor Committee provided for in section 711 of the implementing bill. The Labor Committee will be co-chaired by the Trade Representative and the Secretary of Labor, and be comprised of other agencies with relevant experience, as appropriate. The day-to-day operations of the Labor Committee for the lead agencies will be carried out by the Assistant U.S. Trade Representative for Labor Affairs in the Office of the United States Trade Representative, and the Deputy Undersecretary for International Affairs at the U.S. Department

of Labor. The Labor Committee will meet at least quarterly during the first five years after its establishment, and semi-annually for the following five years. During the first five years after its establishment, the Labor Committee will conduct monitoring visits to Mexico semi-annually. Labor attachés in Mexico will be required to provide quarterly monitoring reports to the Labor Committee. The Labor Committee will coordinate monitoring activities with officials from the Departments of Labor and State, including labor attachés stationed in Mexico, as well as other U.S. government agencies, and interested labor and human rights stakeholders with knowledge of labor issues in Mexico.

The Labor Committee will provide opportunities for input by members of the Labor Advisory Committee for Trade Negotiations and Trade Policy in its work. The Labor Committee will also provide other stakeholders with opportunities to provide input, consistent with Federal Advisory Committee Act requirements. In order to maximize the opportunities for interested parties to provide information, including confidential information, regarding Mexico's labor reform efforts and compliance by Mexican enterprises with labor laws, the Labor Committee will establish a web-based "hotline", to be managed by the Secretary of Labor, to receive such information.

In order to ensure ongoing communications with the Government of Mexico regarding its labor reforms and the resources being committed to carry out those reforms, the Labor Committee will establish and maintain a dialogue with officials from the Ministries of Labor, Trade, and Foreign Affairs, as well as officials from the legislative and judicial branches. The Labor Committee, drawing on the expertise of the Department of Labor, shall identify issues for capacity building activities in Mexico.

c. Enforcement

The USMCA, as compared to NAFTA, makes a greater range of labor practices subject to dispute settlement under Chapter 31 (Dispute Settlement). In addition, Annex 31-A establishes a Facility-Specific Rapid Response Mechanism between the United States and Mexico, which will provide an expedited procedure to identify labor rights problems in Mexico related to Annex 23-A of the Labor Chapter. The Labor Committee will establish procedures for recommending that the United States take actions under the Mechanism, including trade remedies and other penalties for goods or services from specific facilities in Mexico. In implementing the petition process set out in Section 716, the USTR shall promptly submit a request for review under 716(b)(3), upon the affirmative determination under Section 716(b)(1), absent extraordinary circumstances.

By entry into force of the Agreement, the Trade Representative will establish lists of panelists per Annex 31-A, to serve as labor experts for cases under the Rapid Response Mechanism, and will consult with the Congress on the appointment and funding for panelists.

The effective implementation of this Facility-Specific Rapid Response Mechanism recognizes that, in connection with the assessment of any Denial of Rights, that an on-site verification is an effective and typically necessary tool to ascertain the facts, obtain input from the affected parties at such facility, and ensure that the Mechanism advances the goals of this Agreement.

The USTR recognizes that the goals of procedures under Annex 31-A is to address Denial of Rights on an expedited basis. Where the respondent Party seeks to remediate such violations, the USTR will seek the shortest possible remediation period, commensurate with the nature of such Denial of Rights and recognizing that in cases of severe labor violations, including violence against workers, pursuing a course of remediation may not be adequate.

d. Independent Mexico Expert Labor Board

The USMCA implementing legislation establishes and Independent Mexico Expert Labor Board (Board), to monitor Mexico's compliance with USMCA labor obligations as well as is implementation of Mexico's historic labor law reform. Mexico is in the process of creating a new national system of labor justice, which include new federal and state labor courts, and new administrative institutions to register unions and ensure worker support for collective bargaining agreements. Mexico's reforms are in accordance with Annex 23-A, and the Board will report to the Labor Committee on these issues. The U.S. Department of Labor will coordinate with the Trade Representative to provide logistical support for the Board, whose membership will include appointments from the Labor Advisory Committee and the Congress, per the implementing legislation.

e. Forced Labor Task Force

The USMCA Labor Chapter includes an obligation for Parties to prohibit the importation of goods produced by forced labor, and the implementing legislation establishes a Forced Labor Enforcement Task Force. The Task Force will be chaired by the Secretary of Homeland Security, and work with the Labor Committee to monitor forced labor issues in Mexico, as well as report to the Congress on activities by the U.S. Department of Homeland Security to enforce prohibitions under Section 307 of the Tariff Act of 1930.

Chapter 24 (Environment)

No statutory changes will be required for the United States to implement its obligations under Chapter 24. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

However, the implementing bill contains provisions to ensure that Mexico and Canada implement their obligations under the Environment Chapter.

As noted earlier, one of the significant improvements from NAFTA was the inclusion of the environment disciplines subject to dispute resolution into the core of the USMCA. Chapter 24 includes and improves upon the substantive provisions of the *North American Agreement on Environmental Cooperation* (NAAEC). In parallel to the negotiations of the USMCA, the Governments of the United States, Canada, and Mexico, negotiated the *Agreement on Environmental Cooperation* (ECA). The ECA was signed by Mexico on November 30, 2018, by the United States on December 11, 2018, and by Canada on December 19, 2018. The ECA will support implementation of the environmental commitments of the UMSCA and will modernize and enhance the effectiveness of environmental cooperation between the Parties. Article 17 of the ECA provides that the ECA will enter into force upon entry into force of the UMSCA and will supersede the NAAEC. In addition, in parallel to the USMCA, the Governments of the United States and Mexico entered into the Environment Cooperation and Customs Verification Agreement. The Environment Cooperation and Customs Verification Agreement was signed in Mexico City on December 10, 2019.

1. Implementing Bill

The Environment Chapter (Chapter 24) of the USMCA calls on the United States, Mexico, and Canada to take certain actions with respect to the implementation of certain Multilateral Environmental Agreements (MEAs), effective enforcement of environmental laws and regulations, sustainable management of fisheries, conservation of wild flora and fauna, and other related environment commitments. The Chapter commits the Parties to comply with certain MEAs to which they are a party, to conserve natural resources and sustainably manage their fisheries, and to combat and cooperate to prevent trade in illegally harvested wildlife, fish, and timber species, among other obligations.

Section 811 of the bill establishes the Interagency Environment Committee for Monitoring and Enforcement ("Interagency Environment Committee") to oversee implementation, monitoring, and enforcement of the Environment Chapter of the USMCA. Section 812 provides for the Interagency Environment Committee to carry out an assessment of the environmental laws and policies of the USMCA countries to determine if such laws and policies are sufficient to implement their environmental obligations and identify any gaps. Section 813 describes monitoring actions that the Interagency Environment Committee will undertake relating to implementation of the Environment Chapter of the USMCA. Section 813 also provides authority to the Interagency Environment Committee to: review public submissions filed pursuant to Article 24.27 (Submissions on Enforcement Matters) and factual records prepared by the Secretariat of the Commission for Environmental Cooperation; review reports provided by U.S. government environment experts; and request verifications and review information regarding the legality of certain wildlife, timber and seafood shipments from Mexico, pursuant to the bilateral Environment Cooperation and Customs Verification Agreement between the United States and Mexico. Section 814 describes enforcement actions that the Committee may undertake, including requesting environment consultations under article 24.29 of

the USMCA Environment Chapter or requesting the initiation of monitoring or enforcement actions under the existing authorities as set out in Section 815.

Section 816 of the bill provides that no later than one year after the USMCA enters into force, and annually for each of the next four years, and biennially thereafter, USTR will report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on steps the Parties have taken to implement and enforce the commitments in the Environment Chapter of the USMCA, and additional actions that may need to be taken with respect to USMCA countries that might be failing to implement their environmental obligations. Additionally, Section 816 provides for a comprehensive determination regarding the USMCA countries' implementation efforts along with an updated assessment to be submitted in the fifth year report.

Section 822 provides for additional monitoring and implementation resources, including three environmental experts from relevant U.S. government agencies to be detailed to the Office of the USTR and assigned as environment attaches at the U.S. Embassy or a Consulate in Mexico in order to assist the Committee in carrying out its duties to monitor and enforce the Environment Chapter.

Subtitle C of title VIII contains provisions concerning the role of the North American Development Bank in relation to the implementation of the Environment Chapter of the USMCA. The Administration affirms the operations and purposes of the North American Development Bank as set forth in the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a North American Development Bank. In particular, the Administration recognizes Article II of Chapter III of such Agreement which gives preference in financial assistance to environmental infrastructure projects relating to water pollution, wastewater treatment, water conservation, municipal solid waste, and related matters.

2. Administrative Action

a. Environment Committee

Article 24.26(1) of the Agreement provides that each Party will designate and notify a contact point from its relevant authorities to facilitate communication between the Parties on implementation of the Environment Chapter. The USTR Environment and Natural Resources Office, in regular consultation and coordination with the U.S. Environmental Protection Agency and the U.S. Department of State (Bureau of Oceans and International and Scientific Affairs), will serve as the U.S. contact point. Article 24.26(2) of the Agreement establishes an Environment Committee, composed of senior government representatives, or their designees, of the relevant trade and environment national authorities of each Party responsible for implementation of this Chapter. The Assistant U.S. Trade Representative for Environment and Natural Resources will serve as the U.S. representative, in regular consultation and coordination

with the U.S. Environmental Protection Agency and the U.S. Department of State (Bureau of Oceans and International and Scientific Affairs). USTR will coordinate with other agencies with relevant expertise.

b. Interagency Environment Committee for Monitoring and Enforcement

USTR and other agencies will monitor the progress of Mexico and Canada in implementing the broad range of obligations contained in the Environment Chapter, including those designed to further improve the Parties' governance of natural resources, including fisheries. In particular, USTR will work with the U.S. Environmental Protection Agency (EPA), U.S. Department of Interior, U.S. Department of State, U.S. Department of Commerce, and other appropriate agencies to identify specific areas in which the United States, Mexico, and Canada can collaborate, through capacity building, to ensure compliance with the Environment Chapter of the USMCA. USTR will coordinate the interagency effort to address these specific areas under the Environmental Cooperation Agreement, as provided for in Article 24.25 (Environmental Cooperation).

No later than 30 days after enactment of the USMCA, the President will establish the interagency committee provided for in Section 811 and will direct the appropriate authorities in the executive branch, in consultation with USTR, to issue those measures, including agency regulations, that may be necessary to implement the Environment Chapter of the USMCA. The interagency committee, which USTR will chair and coordinate, will comprise of agencies with relevant authorities or expertise, including the U.S. Department of State, EPA, the U.S. Department of Agriculture (USDA) – Animal and Plant Health Inspection Service (APHIS), the U.S. Department of the Interior – Fish and Wildlife Service (FWS), Department of Commerce – National Oceanic and Atmospheric Administration (NOAA), U.S. Customs and Border Protection (CBP), the U.S. Department of Justice and other agencies, as appropriate. The interagency committee will coordinate across U.S. government agencies to fully utilize all existing authorities under the USMCA enforcement mechanisms, the Cooperation and Customs Verification Agreement, and existing U.S. law to ensure the obligations set out in the Environment Chapter are implemented and the USMCA is effectively enforced.

Especially in the context of sustainable fisheries management, marine species conservation, and efforts to combat illegal, unreported and unregulated (IUU) fishing, NOAA will bring to the interagency committee its long history of developing and implementing policies to protect and manage marine resources and make use of enforcement tools available, such as MSRA. The experience of FWS and APHIS in ensuring compliance with the Endangered Species Act and the Lacey Act, and in particular in making use of the enforcement tools available under those statutes, will serve to inform the interagency committee as it determines whether the Parties are complying with their laws implementing the Convention on International Trade in Endangered Species (CITES) and what compliance measures, if any, may be appropriate. The Department of State, through its Bureau of Oceans and International Environmental and Scientific Affairs, has worked extensively with other governments, including

in Mexico and Canada, to address concerns relating to local and cross-border wildlife and forest issues, as well as IUU fishing under Regional Fisheries Management Organizations (RFMOs), such as IATTC and CCAMLR. EPA has extensive experience working with Canada and Mexico on environmental cooperation, including developing, monitoring, and enforcing environmental laws and regulations. CBP has experience targeting high-risk shipments of illegal timber and wildlife and sharing information with counterpart agencies in Canada and Mexico.

USTR will coordinate with the Department of State, FWS, EPA, NOAA, and other agencies, as appropriate, ahead of reporting to the Senate Committee on Finance and the House of Representatives Committee on Ways and Means as required under Section 816 (Report to Congress) of the bill.

Chapter 25 (Small and Medium-Sized Enterprises)

For the first time in a U.S. free trade agreement, the USMCA includes a dedicated, stand-alone chapter on small and medium-sized enterprises (SMEs), which is intended to promote cooperation between the three Parties and help ensure that SMEs can benefit from the Agreement.

1. Implementing Bill

No statutory or administrative changes will be required to implement Chapter 25. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 25.4 establishes the Committee on SME Issues ("SME Committee"), which will convene within one year after the date of entry into force of the USMCA.

Chapter 26 (Competitiveness)

1. Implementing Bill

No statutory changes will be required to implement Chapter 26. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 26.1 establishes the inter-governmental North American Competitiveness Committee ("Competitiveness Committee") and provides that each Party shall designate and notify a contact point for the Competitiveness Committee. A USTR official will serve as the contact point for the United States.

Chapter 27 (Anticorruption)

No statutory or administrative changes will be required to implement Chapter 27. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 28 (Good Regulatory Practices)

1. Implementing Bill

No statutory changes will be required to implement Chapter 28. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

U.S. administrative regulations, practices, and procedures, including pursuant to the APA, are already in conformity with the obligations assumed under this Chapter.

Article 28.9 provides that each Party shall designate and notify a contact point for matters arising under this Chapter. A USTR official responsible for good regulatory practices (GRP) matters will serve as the contact point for the United States.

Article 28.18 (Committee on Good Regulatory Practices) establishes an inter-governmental Committee on Good Regulatory Practices ("GRP Committee") composed of government representatives of each Party, including representatives from their central regulatory coordinating bodies as well as relevant regulatory agencies. A USTR official responsible for GRP matters will serve as the lead U.S. representative to the GRP Committee.

Chapter 31 (Dispute Settlement)

1. Implementing Bill

Section 105(a) of the bill authorizes the President to establish or designate within the Department of Commerce a United States Section of the Secretariat established under Article 30.6 of the USMCA. The United States Section, subject to the oversight of the interagency group established under section 402 of the North American Free Trade Agreement

Implementation Act, shall carry out its functions with the Secretariat to facilitate the operation of the Agreement, including the operation of the panels and committees under Section D of Chapter 10 and the work of panels under Chapter 31 of the USMCA. The United States Section will not be an "agency" within the meaning of 5 U.S.C. 552, consistent with treatment provided under other U.S. free trade agreements. Thus, for example, the office will not be subject to the Freedom of Information Act or the Government in the Sunshine Act. Since they are international bodies, panels and committees established under Section D of Chapter 10 and panels established under Chapter 31 are not subject to those acts.

Section 105(b) of the bill authorizes the appropriation of funds to support the United States Section established pursuant to section 105(a).

Section 105(c) of the bill authorizes the U.S. Section to retain funds distributed to it by the Mexican or Canadian sections of the Secretariat in connection with the reimbursement of expenses generated by panel proceedings under Chapter 10 or 31. Continuing the practice from NAFTA, the governments involved in the proceedings will share the costs of such proceedings equally and will agree in advance on the nature and amount of expenses that panelists and other experts will be permitted to incur.

2. Administrative Action

a. Implementation of Panel Reports

It bears repeating that panel reports presented under Chapter 31 have no effect under the law of the United States. Neither federal agencies nor state governments are bound by any finding or recommendation included in such reports. In particular, panel reports do not provide legal authority for federal agencies to change their regulations or procedures or refuse to enforce particular laws or regulations, such as those related to human, animal or plant health, or the environment. Furthermore, the United States will not seek to introduce a panel report into evidence in any civil suit brought by the United States challenging a state law or regulation on the ground that it is inconsistent with the NAFTA.

In normal circumstances, the United States will agree with its USMCA partners on a resolution of disputes under Chapter 31 that is in conformity with panel recommendations. Where the matter involves a law or regulation of a state of the United States, any resolution would be reached in consultation and coordination with the state concerned, as described in this Statement in connection with Chapter 1.

The USMCA recognizes that it may not be possible for a USMCA government to agree to the removal of a federal or state or provincial measure that a panel has found to be inconsistent with the Agreement. Accordingly, it provides for alternative resolutions, including the provision of trade compensation and other negotiated settlements, or the suspension of benefits. In all cases following a panel report, the USMCA makes discretionary any change in U.S. law and

leaves to the United States the manner in which any such change may be implemented – whether through the adoption of legislation, a change in regulation, judicial action, or otherwise.

b. Dispute Settlement: Nominations for Dispute Settlement Roster

Article 31.8 of the USMCA requires that by the date of entry into force of the USMCA the Parties establish a roster of up to 30 individual who are willing to serve as panelists. USTR will consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate ("Trade Committees") as it considers nominees for the roster of panelists and will provide the Trade Committees with the names of the experts it is considering, and detailed background information on each, at least 30 days before submitting the names of any nominees.

c. Enforcement of U.S. Rights

Legislative authority currently exists for the Executive Branch fully to enforce U.S. rights under Chapter 31. Section 301 of the Trade Act of 1974, as amended, authorizes the United States Trade Representative ("USTR") to take specific action, subject to the President's direction, and to take all "appropriate and feasible action" in the President's power that the President directs the USTR to take to enforce U.S. rights under trade agreements such as the USMCA.

The United States shall enforce its rights under the USMCA through consultations and the dispute settlement mechanism provided for in Chapter 31 when possible. However, a decision by Canada or Mexico to prevent or unreasonably delay formation of a dispute settlement panel would not prevent the Executive Branch from enforcing U.S. rights. In this circumstance, the USTR's determination on whether the USMCA partner breached USMCA obligations or impaired U.S. rights under the USMCA would be based on the USTR's evaluation of the relevant legal and factual issues, including the fact that the USMCA partner failed to cooperate in the dispute settlement process.

Once the USMCA enters into force, an interested person may file a petition with the USTR requesting section 301 action in any case in which the person considers that another USMCA government has failed to honor a provision of the Agreement or has caused the nullification or impairment of benefits that the United States could reasonably have anticipated under the Agreement. Alternatively, the USTR may, on his or her own initiative, institute a section 301 proceeding.

If the USTR decides to initiate an investigation under section 301 with respect to alleged Canadian or Mexican practices, section 303(a) of the Trade Act requires the USTR initially to attempt consultations with the government of the relevant USMCA country to resolve the matter. If the case involves a possible breach of the USMCA or impairment of U.S. rights under the USMCA, and if consultations have failed to produce a mutually acceptable solution, then section 303(a) requires that the matter be submitted to the formal dispute resolution procedures of the

Agreement, or to the applicable dispute settlement procedures of another trade agreement to which the United States and the other USMCA country are parties. The USTR will seek information and advice from the private sector, including from the petitioner, if any, in preparing U.S. presentations for consultations and formal dispute resolution procedures.

Section 301 provides the USTR with authority to take appropriate retaliatory action in the event that a panel report upholds a U.S. allegation that another USMCA government has breached the Agreement or nullified or impaired U.S. benefits and the other government does not take satisfactory remedial action or provide satisfactory compensation.

Chapter 32 (Exceptions and General Provisions)

Article 32.6 (Cultural Industries) exempts certain measures adopted or maintained by Canada with respect to a cultural industry, as defined in the Article, from a number of obligations under the USMCA. It also allows the United States or Mexico to take a measure of equivalent commercial effect in response. The Administration is committed to using all appropriate tools at its disposal to discourage Canada from taking measures that discriminate against it, or restrict market access for U.S. industries. In addition, although the Administration agreed to carry over the NAFTA cultural industry exception in revised form, it remains the policy of the United States not to agree to this type of exception in future free trade agreements.

1. Implementing Bill

Section 306 of the bill amends subsection (f) to section 182 of the Trade Act of 1974 (19 U.S.C. 2242). Subsection (f) was added by the NAFTA Implementation Act to address the similar concerns arising from NAFTA Article 2106. It requires the U.S. Trade Representative to identify, within 30 days of the release of the annual National Trade Estimates Report on Foreign Barriers, any new Canadian act, policy, or practice affecting cultural industries that is actionable under Article 2106. In deciding whether to identify an act, policy, or practice, the U.S. Trade Representative will consult with the relevant domestic industries, the appropriate advisory committees, and other U.S. agencies, and take into account such other information as may be available. Any act, policy, or practice identified under subsection (f) will become the subject of an investigation under section 301 of the Trade Act of 1974 unless the United States has already taken action against it.

In order to maintain this enforcement tool, section 306 makes conforming changes to subsection (f) in order to continue its application for purposes of the USMCA.

2. Administrative Action

No administrative changes will be required to implement Chapter 32.

Article 32.10 (Non-Market Country FTA) of the USMCA requires that any Party intending to negotiate a free trade agreement with a non-market country must inform the other Parties and provide information and an opportunity to review the text. It also provides that entry into such an agreement by one Party allows for the other Parties to terminate the USMCA and replace it with an agreement as between those other Parties. This provision is intended to ensure that the negotiated benefits of the USMCA remain with the USMCA Parties and are not diluted by one Party's agreement with a non-market country. If a USMCA Party were to enter into such an agreement, it is the policy of the United States to rigorously review the information and ensure that the United States is not disadvantaged.

Chapter 33 (Macroeconomic Policies and Exchange Rate Matters)

1. Implementing Bill

No statutory changes will be required to implement Chapter 33. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

For the United States, the Department of the Treasury will serve as the point of contact for all matters arising under Chapter 33.

Annex II (Schedule of the United States)

1. Implementing Bill

Subtitle C of Title III of the implementing bill establishes a petition mechanism whereby the U.S. International Trade Commission (the "Commission") would initiate an investigation to determine whether grants of authority, or requests for grants of authority, for persons of Mexico to provide cross-border long-haul trucking services in the territory of the United States outside the border commercial zones are causing, or threaten to cause, material harm to U.S. suppliers, operators, or drivers. Section 324(a) of the bill authorizes the President, where the Commission has made an affirmative finding of material harm or threat thereof, to direct the Secretary of Transportation to impose limitations on grants of authority for persons of Mexico to provide cross-border long-haul trucking services in the territory of the United States outside the border commercial zones. The focus of the Commission's investigation will be on determining whether the grants of authority described in section 322(a)(1)-(3) of the bill are causing or threaten to cause material harm to U.S. suppliers, operators, or drivers of cross-border long-haul trucking services beyond the border commercial zone. For purposes of such determinations, the term "causing" or "cause" does not necessarily mean "wholly causing" or "wholly cause."

2. Administrative Action

a. Confidential Business Information

The implementing bill requires the U.S. International Trade Commission (the "Commission") to promulgate regulations to provide access to confidential business information under protective order in limited circumstances. In promulgating such regulations, the Commission shall adopt procedures similar to those the Commission has adopted for conducting investigations under the countervailing duty and antidumping duty provisions in title VII of the Tariff Act of 1930 and under section 202 of the Trade Act of 1974.

b. Provision of Information by Other Agencies

To assist the Commission in making determinations under subtitle C of Title III, the implementing bill requires the U.S. Department of Transportation, the U.S. Department of Commerce, and U.S. Customs and Border Protection to make available to the Commission any information requested by the Commission as necessary to conduct its investigation. Upon enactment of this bill, the three agencies shall promptly meet with the Commission to identify the types of information that the respective agencies routinely collect relevant to cross-border long-haul trucking and may be able to provide to the Commission. The implementing bill also provides that Customs will collect and maintain such additional data and other information on trucks engaged in cross-border long-haul trucking as the Commission may request. If appropriate, the Commission may also request that the Department of Transportation require additional information from persons of Mexico providing or seeking to provide long-haul trucking services in the United States beyond the border commercial zone.

c. Inspector General Review

Within 60 days of the filing of the report in section 327, the Inspector General of the Department of Transportation shall review the procedures and actions taken by the Secretary to determine whether each Mexico-domiciled motor carrier with any operating authority covered under section 321(7) is in compliance with applicable Federal motor carrier safety laws and regulations and Title III, section 350 of Public Law 107-87, 115 Stat. 833, 864 (2001) (49 U.S.C. 13902 Note), and shall report on the result of the review to 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.

Miscellaneous

1. Implementing Bill

The Annex on Energy Regulatory Measures and Regulatory Transparency, attached to the exchange of letters executed on Nov. 30, 2018 between the United States and Canada, which is integral to the USMCA, contains obligations with respect to energy regulatory measures similar to obligations under Chapter 6 of the NAFTA (Energy and Basic Petrochemicals). Section 1017(c) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-6) contains a savings clause that references the NAFTA. Section 307 of the bill makes a conforming change to that section to maintain the treatment provided with respect to Canada once the USMCA enters into force.

COMMITTEE on FINANCE

Chairman Chuck Grassley

U.S.-Mexico-Canada Agreement (USMCA)

Benefits

Market Access:

- Preserves and enhances U.S. duty-free access to Mexican and Canadian markets.
- Requires greater transparency in licensing for imports and exports.
- Improves regulatory compatibility and practices for trade in information and communication technology, pharmaceuticals, medical devices, cosmetic products, and chemical substances.
- Minimizes redundant and unnecessary testing of exported products.
- Establishes information-sharing tools and mechanisms aimed at enabling small and medium enterprises to take advantage of USMCA.
- Eliminates local presence requirements for cross-border service providers.

Agriculture:

- Increases market access for U.S. farmers with new export opportunities for U.S. dairy, poultry and egg producers.
- Eliminates Canada's Class 6 and 7 dairy programs that hindered U.S. exports to third-country markets.
- Provides for cooperation and information exchange on agricultural biotechnology trade matters, including gene editing.
- Prevents trade barriers disguised as food safety and animal or plant health measures by requiring such measures to be based on sound science.
- Addresses longstanding non-tariff barriers to the ability of U.S. producers to export wheat and wine to Canada.
- Creates safeguards to protect against issuance of geographic indications that would prevent United States producers from using common names to describe food products.
- Ensures that the fees for any import checks of agricultural goods are no higher than the actual cost of service and that the import check is conducted efficiently.
- Improves the transparency and functioning of approval processes for agricultural biotechnology.

Intellectual Property:

- Secures strong protections and enforcement of intellectual property rights to help drive innovation and create economic growth.
- Requires *ex officio* authority for customs officials to stop suspected counterfeit goods.
- Requires a minimum copyright term of the life of the author plus 70 years, or publication plus 75 years.

- Provides 10 years of data protection for agricultural chemicals.
- Continues to provide strong patent protection for innovators by enshrining patentability standards and patent office best practices.
- Requires strong standards against circumvention of technological protection measures for digital content.
- Provides for copyright safe harbors that are consistent with current U.S. law.
- Provides for criminal procedures against the unauthorized copying or transmitting of movies playing in theaters.
- Improved protections for trade secrets, including civil and criminal protections, guarantees on the ability to license trade secrets, and protection from unauthorized disclosure by courts and government officials.

Digital Trade:

- USMCA will be the first U.S. free trade agreement with a digital trade chapter, creating a strong foundation for the expansion of trade and investment in innovative digital products and services.
- Prohibits the imposition of tariffs on digital products transmitted electronically.
- Minimizes restrictions on where businesses may store and process data and on their ability to transfer data across borders.
- Limits the circumstances when governments may compel disclosure of source code and proprietary algorithms.
- Ensures that businesses may use electronic authentication and signatures to conduct digital trade.
- Ensures that consumer protections apply to digital trade.
- Promotes open access to government-generated public data.
- Limits the civil liability of internet service providers for third-party content that they host or process.

Customs & Trade Facilitation:

- Raises the "de minimis" customs thresholds under which U.S. businesses may export to Canada and Mexico with reduced paperwork and without paying taxes or duties.
- Requires making customs regulations available online.
- Eliminates the standard Certificate of Origin form, allowing parties to make a preference claim with the minimum data elements.
- Allows importers to complete a certificate of origin, instead of relying on the exporter.
- Strengthens verification authority for enforcement purposes.

Auto Rules of Origin:

- New rules will increase U.S. jobs in the automotive sector by incentivizing production in the United States and North America.
- By encouraging companies to use more U.S. content and high wage labor, USMCA will help ensure that U.S producers and workers are able to compete on a level playing field.

Financial Services:

- Expands market access for U.S. business to export electronic payments services, investment advice, and portfolio management.
- Limits the circumstances when a financial regulator may require local storage of data.
- Requires transparency in government licensing and market access authorizations.

State-Owned Enterprises:

- Imposes market disciplines and prohibits discriminatory privileges and certain subsidies.

Textiles:

- Strengthens incentives to use North American fibers, yarns, and fabrics in textile products.

Labor & Environment:

- Provides the strongest labor and environment obligations in any U.S. trade agreement and makes them fully subject to the enforcement and dispute settlement under Chapter 31.

Currency:

- Requires transparency on currency policies and addresses unfair currency practices.

Good Governance:

- Encourages regulations to be written in plain language so that the public can better understand their meaning.
- Requires most regulations to go through a notice and comment procedure so the public can see and provide input on proposed regulations.
- Requires criminal penalties for bribery and corruption, including with respect to interactions with foreign government officials.

Dispute Settlement:

- Improves enforcement of our trading rights by preventing the defending party from blocking the formation of a dispute settlement panel to decide a case.

COMMITTEE on FINANCE

Chairman Chuck Grassley

U.S.-Mexico-Canada Agreement (USMCA)

Trade Figures

North American Trade: Trade with Canada and Mexico has **more than quadrupled** in the last 25 years, reaching nearly **$1.4 trillion** in 2018, or **$3.8 billion** per day. USMCA would raise U.S. real GDP by over **$68 billion** and create nearly **176,000 jobs.**

Exports: Canada and Mexico buy **more American goods than our next 11 trading partners combined ($500 billion versus $460 billion).** Together, the Canadian and Mexican economies represent a **half-trillion dollar market** for U.S. exports, and **49 U.S. states** list Canada or Mexico as one of their **top three export markets**. USMCA would increase exports to Canada and Mexico by **$19.1 billion** and **$14.2 billion**, respectively.

Agriculture: From 1993 to 2017, U.S. agricultural exports to Canada and Mexico more than **quadrupled**, from $8.9 billion to **$39 billion.** USMCA would increase total annual U.S. agricultural and food exports by **$2.2 billion** and boost U.S. dairy exports to Canada by **$227 million** and Mexico by **$50.6 million.**

Manufacturing: Of 42 manufacturing sectors, 38 have Canada or Mexico as their **first or second top export market.** USMCA would level the playing field and increase merchandise exports for the **2 million American manufacturing workers** who depend on trade with Canada and Mexico.

Services: From 1993 to 2017, U.S. services exports to Canada and Mexico **tripled** from $27 billion to **$91 billion.** USMCA would power the service economy so that it sees continued **export growth** and **124,000 new jobs**.

Digital Trade: The internet was not yet fully commercialized when NAFTA was signed. USMCA would be the **first U.S. free trade agreement** with a digital trade chapter, fostering U.S. growth in the digital economy for firms of all sectors and sizes.

Small and Medium-Sized Enterprises: More than **120,000 American small- and medium-sized businesses** export goods and services to Canada and Mexico. USMCA would be the **first U.S. free trade agreement** with a separate chapter dedicated to SMEs.

Data Sources: USITC Report, U.S. Chamber of Commerce, USMCA Coalition, National Association of Manufacturers, and American Farm Bureau Federation

Highlights

The Commission used a combination of detailed quantitative and qualitative industry analyses and an economy-wide computable general equilibrium model to assess the likely impact of USMCA on the U.S. economy and industry sectors. The model estimates that, if fully implemented and enforced, USMCA would have a positive impact on U.S. real GDP and employment.

The elements of the agreement that would have the most significant effects on the U.S. economy are (1) provisions that reduce policy uncertainty about digital trade and (2) certain new rules of origin applicable to the automotive sector. Of interest to stakeholders in many sectors, particularly services industries, are USMCA's new international data transfer provisions, including provisions that largely prohibit forced localization of computing facilities and restrictions on cross-border data flows. Industry representatives consider these provisions to be a crucial aspect of this agreement in terms of changing certain rules of trade across industry sectors, especially given the lack of similar provisions in the North American Free Trade Agreement (NAFTA).

Because NAFTA has already eliminated duties on most qualifying goods and significantly reduced nontariff measures, USMCA's emphasis is on reducing remaining nontariff measures on trade and the U.S. economy; addressing other issues that affect trade, such as workers' rights; harmonizing regulations from country to country; and deterring certain potential future trade and investment barriers.

USMCA would strengthen and add complexity to the rules of origin requirements in the automotive sector by increasing regional value content (RVC) requirements and adding other requirements. USMCA's requirements are estimated to increase U.S. production of automotive parts and employment in the sector, but also to lead to a small increase in the prices and small decrease in the consumption of vehicles in the United States.

The agreement would establish commitments to open flows of data, which would positively impact a wide range of industries that rely on international data transfers. **USMCA would reduce the scope of the investor-state dispute settlement (ISDS) mechanism**, a change that, based on modeling results, would reduce U.S. investment in Mexico and would lead to a small increase in U.S. domestic investment and output in the manufacturing and mining sectors. **The agreement, if enforced, would strengthen labor standards and rights,** including those related to collective bargaining in Mexico, which would promote higher wages and better labor conditions in that country. **New intellectual property rights provisions would increase protections** for U.S. firms that rely on intellectual property. These changes are estimated to increase U.S. trade in certain industries.

The Commission's model estimates that USMCA would raise U.S. real GDP by $68.2 billion (0.35 percent) and U.S. employment by 176,000 jobs (0.12 percent). The model estimates that USMCA would likely have a positive impact on U.S. trade, both with USMCA partners and with the rest of the world. **U.S. exports to Canada and Mexico would increase by $19.1 billion (5.9 percent) and $14.2 billion (6.7 percent), respectively.** U.S. imports from Canada and Mexico would increase by $19.1 billion (4.8 percent) and $12.4 billion (3.8 percent), respectively. **The model estimates that the agreement would likely have a positive impact on all broad industry sectors within the U.S. economy.** Manufacturing would experience the largest percentage gains in output, exports, wages, and employment, while in absolute terms, services would experience the largest gains in output and employment.