

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 109-53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This subchapter, referred to in subsec. (o)(1)(B), was in the original “this title” meaning title II of Pub. L. 109-53, Aug. 2, 2005, 119 Stat. 462, which enacted this subchapter and amended sections 58c, 1508, 1514, 1520, and 1592 of this title. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2005—Subsec. (c)(2)(A). Pub. L. 109-135, § 421(1), substituted

$$“RVC = \frac{AV-VNM}{AV} \times 100”$$

for

$$“RVC = \frac{AV}{AV-VNM} \times 100”.$$

Subsec. (c)(3)(A). Pub. L. 109-135, § 421(2), substituted

$$“RVC = \frac{VOM}{AV} \times 100”$$

for

$$“RVC = \frac{AV}{VOM} \times 100”.$$

Subsec. (c)(4)(A). Pub. L. 109-135, § 421(3), substituted

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

for

$$“RVC = \frac{NC}{NC-VNM} \times 100”.$$

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73556, provided in par. (4) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under subsec. (o) of this section to implement Appendix 4.1-B of the Dominican Republic-Central America-United States Free Trade Agreement by determining whether and, if so, by what amount to increase, in accordance with paragraph 3 or footnote 2 of that Appendix, the quantitative limits in the provi-

sions of the Harmonized Tariff Schedule set out in section D of the Annex to this proclamation (not set out in the Code).

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10828, provided in par. (4) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under subsec. (o) of this section to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the United States and those Dominican Republic-Central America-United States Free Trade Agreement countries for which the Agreement has entered into force, and to add any such fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months after adding the fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted quantity; to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, certain fabrics, yarns, or fibers; and to establish procedures governing the submission of a request for any such determination and to ensure appropriate public participation in any such determination.

§ 4034. Retroactive application for certain liquidations and reliquidations of textile or apparel goods

(a) In general

Notwithstanding section 1514 of this title or any other provision of law, and subject to subsection (c), an entry—

(1) of a textile or apparel good—

(A) of a CAFTA-DR country that the United States Trade Representative has designated as an eligible country under subsection (b), and

(B) that would have qualified as an originating good under section 4033 of this title if the good had been entered after the date of entry into force of the Agreement for that country,

(2) that was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country or any other CAFTA-DR country, and

(3) for which customs duties in excess of the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement were paid,

shall be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and the Secretary of the Treasury shall refund any excess customs duties paid with respect to such entry.

(b) Eligible country

The United States Trade Representative shall determine, in accordance with article 3.20 of the Agreement, which CAFTA-DR countries are eligible countries for purposes of this section, and shall publish a list of all such countries in the Federal Register.

(c) Requests

Liquidation or reliquidation may be made under subsection (a) with respect to an entry of a textile or apparel good only if a request therefor is filed with the Bureau of Customs and Border Protection, within such period as the Bureau of Customs and Border Protection shall establish by regulation in consultation with the Sec-

retary of the Treasury, that contains sufficient information to enable the Bureau of Customs and Border Protection—

- (1)(A) to locate the entry; or
- (B) to reconstruct the entry if it cannot be located; and
- (2) to determine that the good satisfies the conditions set out in subsection (a).

(d) Definition

As used in this section, the term “entry” includes a withdrawal from warehouse for consumption.

(Pub. L. 109–53, title II, §205, Aug. 2, 2005, 119 Stat. 483; Pub. L. 109–280, title XIV, §1634(d), Aug. 17, 2006, 120 Stat. 1168.)

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Editorial Notes

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–280 inserted “or any other CAFTA–DR country” after “that country”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109–280, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic–Central America–United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4035. Enforcement relating to trade in textile or apparel goods

(a) Action during verification

(1) In general

If the Secretary of the Treasury requests the government of a CAFTA–DR country to conduct a verification pursuant to article 3.24 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) Determination

A determination under this paragraph is a determination—

- (A) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or
- (B) that a claim that a textile or apparel good exported or produced by such exporter or producer—
 - (i) qualifies as an originating good under section 4033 of this title, or

- (ii) is a good of a CAFTA–DR country, is accurate.

(b) Appropriate action described

Appropriate action under subsection (a)(1) includes—

- (1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support that claim;

- (2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

- (3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine the country of origin of any such good; and

- (4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) Action on completion of a verification

On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) Appropriate action described

Appropriate action under subsection (c) includes—