

**Executive Documents**

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

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

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

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

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

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

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

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

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

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

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

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

DONALD J. TRUMP.

**§ 4533. Actions regarding verification of claims under the USMCA****(a) Verification****(1) Origin verification****(A) In general**

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

**(B) Additional requirements**

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

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

**(2) Textile and apparel goods****(A) In general**

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

**(B) Additional requirements**

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

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

**(C) Verification described**

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

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

**(D) Action during verification**

Appropriate action described in this subparagraph may consist of—

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

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

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

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

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

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

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

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

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

**(b) Negative determination**

**(1) In general**

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

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

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

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

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

(iii) the importer, exporter, or producer does not maintain, or denies access to, records or documentation required under section 1508(l) of this title;

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

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

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

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

(v) the importer, exporter, or producer—

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

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

**(2) Requests for information**

The Secretary shall not make a negative determination described in paragraph (1)(B) unless—

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

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

**(c) Action based on determination**

**(1) Denial of preferential tariff treatment**

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

**(2) Withholding of preferential tariff treatment based on pattern of conduct**

If verifications of origin relating to identical goods indicate a pattern of conduct by an importer, exporter, or producer of false or unsupported representations relevant to a claim that a good imported into the United States qualifies for preferential tariff treatment under the USMCA, U.S. Customs and Border Protection, in accordance with regulations prescribed by the Secretary, may withhold preferential tariff treatment under the USMCA for entries of those goods imported, exported, or produced by that person until U.S. Customs and Border Protection deter-

mines that person has established compliance with requirements for claims for preferential tariff treatment under the USMCA.

**(d) Prevention of circumvention**

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

(Pub. L. 116–113, title II, §207, Jan. 29, 2020, 134 Stat. 49.)

**Executive Documents**

DELEGATION OF FUNCTIONS

Proc. No. 10053, pars. (10)–(12), June 29, 2020, 85 F.R. 39826, authorized the Committee for Implementation of Textile Agreements to exercise the authority of the President under subsec. (a)(1)(B) and (a)(2)(B) to direct action under subsec. (c) or (a)(2)(D), respectively, of this section with respect to textile and apparel goods, and authorized the Secretary of the Treasury to exercise the authority of the President under subsec. (a)(1)(B) to direct action under subsec. (a)(1)(B)(i) or (c) of this section with respect to goods other than textile or apparel goods.

**§ 4534. Drawback**

**(a) “Good subject to USMCA drawback” defined**

For purposes of this Act, the term “good subject to USMCA drawback” means any imported good other than the following:

(1) A good entered under bond for transportation and exportation to a USMCA country.

(2) A good exported to a USMCA country in the same condition as when imported into the United States. For purposes of this paragraph—

(A) processes such as testing, cleaning, re-packing, sorting, marking, or inspecting a good, or preserving it in its same condition, shall not be considered to change the condition of the good, and

(B) except for a good referred to in paragraph 11 of Annex 3–B of the USMCA that is exported to Mexico, if a good described in the first sentence of this paragraph is commingled with fungible goods and exported in the same condition, the origin of the good may be determined on the basis of the inventory methods provided for in the regulations implementing this title.<sup>1</sup>

(3) A good—

(A) that is—

(i) deemed to be exported from the United States,

(ii) used as a material in the production of another good that is deemed to be exported to a USMCA country, or

(iii) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is deemed to be exported to a USMCA country, and

(B) that is delivered—

(i) to a duty-free shop,

(ii) for ship’s stores or supplies for ships or aircraft, or

(iii) for use in a project undertaken jointly by the United States and a USMCA country and destined to become the property of the United States.

(4) A good exported to a USMCA country for which a refund of customs duties is granted by reason of—

(A) the failure of the good to conform to sample or specification, or

(B) the shipment of the good without the consent of the consignee.

(5) A good that qualifies under the rules of origin set out in section 202<sup>1</sup> that is—

(A) exported to a USMCA country,

(B) used as a material in the production of another good that is exported to a USMCA country, or

(C) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is exported to a USMCA country.

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

(A) used as a material, or

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

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

(7) A citrus product that is exported to Canada.

(8) A good used as a material, or substituted for by a good of the same kind and quality that is used as a material, in the production of—

(A) apparel, or

(B) a good provided for in subheading 6307.90.99 (insofar as it relates to furniture moving pads), 5811.00.20, or 5811.00.30 of the HTS,

that is exported to Canada and that is subject to Canada’s most-favored-nation rate of duty upon importation into Canada.

Where in paragraph (6) a good referred to by an item is described in parentheses following the item, the description is provided for purposes of reference only.

**(b) Same kind and quality**

For purposes of paragraphs (3)(A)(iii), (5)(C), (6)(B), and (8) of subsection (a), and for purposes of obtaining refunds, waivers, or reductions of customs duties with respect to a good subject to USMCA drawback under section 1313(n)(2) of this title, a good is a good of the same kind and quality as another good—

(1) for a good described in such paragraph (6)(B), if the good would have been considered of the same kind and quality as the other good on the day before the date on which the USMCA enters into force; or

(2) for other goods if—

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

<sup>1</sup> See References in Text note below.