

(B) drawback would be allowed with respect to the goods under subsection (b)(4), (j)(1), or (p) of section 1313 of this title.

(c) Elimination of drawback for fees under section 624 of title 7

Notwithstanding any other provision of law, the Secretary of the Treasury may not, on condition of export, refund or reduce a fee applied pursuant to section 624 of title 7 with respect to goods included under subsection (a) that are exported to a USMCA country.

(d) Inapplicability to countervailing and anti-dumping duties

Nothing in this section or the amendments made by it shall be considered to authorize the refund, waiver, or reduction of countervailing duties or antidumping duties imposed on an imported good.

(e) Action on claim

(1) In general

If the Commissioner of U.S. Customs and Border Protection determines that a claim of preferential tariff treatment has been made with respect to an article for which a claim described in paragraph (2) has been made, the Commissioner may make such adjustments regarding the previous customs treatment of the article as may be warranted.

(2) Claims described

A claim described in this paragraph is a claim for—

(A) a refund, waiver, or reduction of duty, under any applicable provision of law; or

(B) a credit against a bond under section 1312(d)(1) of this title.

(Pub. L. 116–113, title II, § 208, title V, § 501(a)–(d), Jan. 29, 2020, 134 Stat. 52, 67, 68; Pub. L. 116–260, div. O, title VI, § 601(c)(1), Dec. 27, 2020, 134 Stat. 2150.)

Editorial Notes

REFERENCES IN TEXT

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

This title, referred to in subsec. (a)(2)(B), is title II of Pub. L. 116–113, Jan. 29, 2020, 134 Stat. 19, which enacted this subchapter and amended and enacted provisions set out as notes under several sections within this title. For complete classification of title II to the Code, see Tables.

Section 202, referred to in subsec. (a)(5), is section 202 of Pub. L. 103–182, title II, Dec. 8, 1993, 107 Stat. 2069, which was classified to section 3332 of this title prior to repeal by Pub. L. 116–113, title VI, § 601, Jan. 29, 2020, 134 Stat. 78, effective on the date the USMCA entered into force (July 1, 2020).

The amendments made by this section, referred to in subsec. (d), mean the amendments made by section 203(b) and (c) of Pub. L. 103–182, which amended sections 81c, 1311 to 1313, and 1562 of this title.

CODIFICATION

Subsecs. (a), (d), and (e) of former section 3333 of this title, which were transferred and redesignated as subsecs. (a), (c), and (d), respectively, of this section by

Pub. L. 116–113, § 501(b)(1), (2), (d)(1)–(3), were based on Pub. L. 103–182, title II, § 203(a), (d), (e), Dec. 8, 1993, 107 Stat. 2086, 2092.

AMENDMENTS

2020—Pub. L. 116–113, § 501(a), struck out “[reserved]” after “Drawback” in section catchline.

Subsec. (a). Pub. L. 116–113, § 501(b)(3)(A)–(C), substituted “USMCA” for “NAFTA” in heading, struck out “and the amendments made by subsection (b)” after “of this Act” and substituted “USMCA drawback” for “NAFTA drawback” in introductory provisions, and substituted “USMCA country” for “NAFTA country” wherever appearing in pars. (1) to (5).

Pub. L. 116–113, § 501(b)(1), (2), transferred subsec. (a) of section 3333 of this title to this section and inserted it after section catchline. See Codification note above.

Subsec. (a)(2)(A). Pub. L. 116–113, § 501(b)(3)(D)(i), inserted “sorting, marking,” after “repacking.”

Subsec. (a)(2)(B). Pub. L. 116–113, § 501(b)(3)(D)(ii), substituted “paragraph 11 of Annex 3–B of the USMCA” for “paragraph 12 of section A of Annex 703.2 of the Agreement”.

Subsec. (a)(6). Pub. L. 116–113, § 501(b)(3)(E), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “A good provided for in subheading 1701.11.02 of the HTS 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 or 1701.99.99 (relating to refined sugar).”

Subsec. (b). Pub. L. 116–113, § 501(c), added subpar. (b).

Subsec. (c). Pub. L. 116–113, § 501(d)(4), substituted “exported to a USMCA country.” for “exported to—

“(1) Canada after December 31, 1995, for so long as it is a NAFTA country; or

“(2) Mexico after December 31, 2000, for so long as it is a NAFTA country.”

Pub. L. 116–113, § 501(d)(1)–(3), transferred subsec. (d) of section 3333 of this title to this section, inserted it after subsec. (b), and redesignated it as subsec. (c). See Codification note above.

Subsec. (d). Pub. L. 116–113, § 501(d)(1)–(3), transferred subsec. (e) of section 3333 of this title to this section, inserted it after subsec. (c), and redesignated it as subsec. (d). See Codification note above.

Subsec. (e). Pub. L. 116–260 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

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

Amendment by section 501(b) to (d) of Pub. L. 116–113 effective on the date the USMCA enters into force (July 1, 2020) and applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after that date, see section 501(g) of Pub. L. 116–113, set out as a note under section 81c of this title.

§ 4535. Regulations

(a) Secretary of the Treasury

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this title¹ and the amendments made by this title¹ (except as provided by subsection (b)).

(b) Secretary of Labor

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the labor value content determination under section 4532 of this title.

¹ See References in Text note below.

(Pub. L. 116–113, title II, §210, Jan. 29, 2020, 134 Stat. 53.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsec. (a), is title II of Pub. L. 116–113, Jan. 29, 2020, 134 Stat. 19, which enacted this subchapter and amended and enacted provisions set out as notes under several sections within this title. For complete classification of title II to the Code, see Tables.

SUBCHAPTER III—APPLICATION OF USMCA TO SECTORS AND SERVICES

PART A—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

Editorial Notes

CODIFICATION

Pub. L. 116–113, title V, §502(a), (d), Jan. 29, 2020, 134 Stat. 70, struck out “[reserved]” at end of part heading and reenacted part heading without change.

§ 4551. USMCA article impact in import relief cases under Trade Act of 1974

(a) In general

If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the International Trade Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 1330(d) of this title), the International Trade Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether—

(1) imports of the article from a USMCA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a USMCA country, considered individually or, in exceptional circumstances, imports from USMCA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

(b) Factors

(1) Substantial import share

In determining whether imports from a USMCA country, considered individually, account for a substantial share of total imports, such imports normally shall not be considered to account for a substantial share of total imports if that country is not among the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period.

(2) Application of “contribute importantly” standard

In determining whether imports from a USMCA country or countries contribute importantly to the serious injury, or threat thereof, the International Trade Commission shall consider such factors as the change in the import share of the USMCA country or countries, and the level and change in the level of imports of such country or countries.

In applying the preceding sentence, imports from a USMCA country or countries normally shall not be considered to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

(c) “Contribute importantly” defined

For purposes of this section and section 4552(a) of this title, the term “contribute importantly” refers to an important cause, but not necessarily the most important cause.

(Pub. L. 116–113, title III, §301, formerly Pub. L. 103–182, title III, §311, Dec. 8, 1993, 107 Stat. 2106; renumbered §301 of Pub. L. 116–113 and amended Pub. L. 116–113, title V, §502(b), Jan. 29, 2020, 134 Stat. 70.)

Editorial Notes

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Chapter 1 of title II of the Act is classified generally to part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 3371 of this title prior to renumbering by Pub. L. 116–113.

AMENDMENTS

2020—Pub. L. 116–113, §502(b)(4)(A), (C), substituted “USMCA” for “NAFTA” in section catchline and wherever appearing in text.

Subsec. (c). Pub. L. 116–113, §502(b)(4)(B), substituted “section 4552(a) of this title” for “section 3372(a) of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–113, title V, §502(e), Jan. 29, 2020, 134 Stat. 70, provided that:

“(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section [transferring sections 3371 and 3372 of this title, respectively, to and amending this section and section 4552 of this title] shall—

“(A) take effect on the date on which the USMCA enters into force [July 1, 2020]; and

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

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

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

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

[For definition of “USMCA” as used in section 502(e) of Pub. L. 116–113, set out above, see section 4502 of this title.]

§ 4552. Presidential action regarding USMCA imports

(a) In general

In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 [19