

(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

U.S.C. 2251 et seq.] with respect to imports from a USMCA country, the President shall determine whether—

(1) imports from such country, considered individually, account for a substantial share of total imports; or

(2) imports 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, found by the International Trade Commission.

(b) Exclusion of USMCA imports

In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall exclude from such action imports from a USMCA country if the President makes a negative determination under subsection (a)(1) or (2) with respect to imports from such country.

(c) Action after exclusion of USMCA country imports

(1) In general

If the President, under subsection (b), excludes imports from a USMCA country or countries from action under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.] but thereafter determines that a surge in imports from that country or countries is undermining the effectiveness of the action—

(A) the President may take appropriate action under such chapter 1 to include those imports in the action; and

(B) any entity that is representative of an industry for which such action is being taken may request the International Trade Commission to conduct an investigation of the surge in such imports.

(2) Investigation

Upon receiving a request under paragraph (1)(B), the International Trade Commission shall conduct an investigation to determine whether a surge in such imports undermines the effectiveness of the action. The International Trade Commission shall submit the findings of its investigation to the President no later than 30 days after the request is received by the International Trade Commission.

(3) “Surge” defined

For purposes of this subsection, the term “surge” means a significant increase in imports over the trend for a recent representative base period.

(d) Condition applicable to quantitative restrictions

Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article, with allowance for reasonable growth.

(Pub. L. 116–113, title III, §302, formerly Pub. L. 103–182, title III, §312, Dec. 8, 1993, 107 Stat. 2107;

renumbered §302 of Pub. L. 116–113 and amended Pub. L. 116–113, title V, §502(c), Jan. 29, 2020, 134 Stat. 70.)

Editorial Notes

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsecs. (a) to (c), 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 3372 of this title prior to renumbering by Pub. L. 116–113.

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Transfer to and amendment of this section by Pub. L. 116–113 effective on the date on which the USMCA enters into force (July 1, 2020) and applicable 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, see section 502(e) of Pub. L. 116–113, set out as a note under section 4551 of this title.

PART B—TEMPORARY ENTRY OF BUSINESS PERSONS

Editorial Notes

CODIFICATION

Pub. L. 116–113, title V, §503(a), (e), Jan. 29, 2020, 134 Stat. 71, 72, struck out “[reserved]” at end of part heading and reenacted part heading without change.

§ 4561. Temporary entry

Upon a basis of reciprocity secured by the USMCA, an alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Section B of Annex 16–A of the USMCA, but only if any such purpose shall have been specified in such Annex on the date of entry into force of the USMCA. For purposes of this section, the term “citizen of Mexico” means “citizen” as defined in article 16.1 of the USMCA.

(Pub. L. 116–113, title III, §311, formerly Pub. L. 103–182, title III, §341(a), Dec. 8, 1993, 107 Stat. 2116; renumbered §311 of Pub. L. 116–113 and amended Pub. L. 116–113, title V, §503(b), Jan. 29, 2020, 134 Stat. 71.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, which is