

(32) Total cost

The term “total cost” means all product costs, period costs, and other costs incurred in the territory of one or more of the NAFTA countries.

(33) Transaction value

Except as provided in subsection (c)(1) or (c)(2)(A) of this section, the term “transaction value” means the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3, and 4 of Article 8 of the Customs Valuation Code and determined without regard to whether the good or material is sold for export.

(34) Underbody

The term “underbody” means the floor pan of a motor vehicle.

(35) Used

The term “used” means used or consumed in the production of goods.

(q) Presidential proclamation authority**(1) In general**

The President is authorized to proclaim, as a part of the HTS—

(A) the provisions set out in Appendix 6.A of Annex 300-B, Annex 401, Annex 403.1, Annex 403.2, and Annex 403.3, of the Agreement, and

(B) any additional subordinate category necessary to carry out this title¹ consistent with the Agreement.

(2) Modifications

Subject to the consultation and layover requirements of section 3313 of this title, the President may proclaim—

(A) modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than the provisions of paragraph A of Appendix 6 of Annex 300-B and section XI of part B of Annex 401 of the Agreement; and

(B) a modified version of the definition of any term set out in subsection (p) of this section (and such modified version of the definition shall supersede the version in subsection (p) of this section), but only if the modified version reflects solely those modifications to the same term in article 415 of the Agreement that are agreed to by the NAFTA countries before December 8, 1994.

(3) Special rules for textiles

Notwithstanding the provisions of paragraph (2)(A), and subject to the consultation and layover requirements of section 3313 of this title, the President may proclaim—

(A) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement, and

(B) before December 8, 1994, modifications to correct any typographical, clerical, or

other nonsubstantive technical error regarding the provisions of Appendix 6.A of Annex 300-B and section XI of part B of Annex 401 of the Agreement.

(Pub. L. 103-182, title II, §202, Dec. 8, 1993, 107 Stat. 2069; Pub. L. 104-295, §21(a)(2), Oct. 11, 1996, 110 Stat. 3529; Pub. L. 105-206, title V, §5003(b)(4), July 22, 1998, 112 Stat. 790.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a)(2)(A), is act June 18, 1934, ch. 590, 48 Stat. 998, as amended, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (c)(7), is section 202 of Pub. L. 100-449, which is set out in a note under section 2112 of this title.

This title, referred to in subsec. (q)(1)(B), is title II of Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2068, which enacted this subchapter, amended sections 58c, 81c, 1304, 1311 to 1313, 1508, 1509, 1514, 1520, 1562, 1592, and 1628 of this title, and enacted provisions set out as notes under sections 58c, 1304, and 3331 of this title.

AMENDMENTS

1998—Subsec. (n). Pub. L. 105-206 struck out “most-favored-nation” before “rate of duty”.

1996—Subsec. (m)(4)(C). Pub. L. 104-295, §21(a)(2)(A), substituted “subsection (p)” for “subsection (o)”.

Subsec. (p)(18). Pub. L. 104-295, §21(a)(2)(B), substituted “Federal Government” for “federal government”.

EFFECTIVE DATE

Section effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as a note under section 3331 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

NORTH AMERICAN FREE TRADE AGREEMENT: ENTRY INTO FORCE

The North American Free Trade Agreement entered into force on Jan. 1, 1994, see note set out under section 3311 of this title.

§ 3333. Drawback**(a) “Good subject to NAFTA drawback” defined**

For purposes of this Act and the amendments made by subsection (b) of this section, the term “good subject to NAFTA drawback” means any imported good other than the following:

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

(2) A good exported to a NAFTA 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, or inspecting a good, or preserving

¹ See References in Text note below.

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 12 of section A of Annex 703.2 of the Agreement 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.¹

(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 NAFTA 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 NAFTA 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 NAFTA country and destined to become the property of the United States.

(4) A good exported to a NAFTA 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 3332 of this title that is—

(A) exported to a NAFTA country,

(B) used as a material in the production of another good that is exported to a NAFTA 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 NAFTA country.

(6) 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).

(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), (c) Omitted

(d) 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) of this section that are 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.

(e) 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.

(Pub. L. 103-182, title II, §203, Dec. 8, 1993, 107 Stat. 2086.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, known as the North American Free Trade Agreement Implementation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

The amendments made by subsection (b) of this section, referred to in subsec. (a), are the amendments made by section 203(b) of Pub. L. 103-182 to sections 81c, 1311 to 1313, and 1562 of this title.

This title, referred to in subsec. (a)(2)(B), is title II of Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2068, which enacted this subchapter, amended sections 58c, 81c, 1304, 1311 to 1313, 1508, 1509, 1514, 1520, 1562, 1592, and 1628 of this title, and enacted provisions set out as notes under sections 58c, 1304, and 3331 of this title.

This section or the amendments made by it, referred to in subsec. (e), is section 203 of Pub. L. 103-182, which enacted this section and amended sections 81c, 1311 to 1313, and 1562 of this title.

CODIFICATION

Section is comprised of section 203 of Pub. L. 103-182. Subsec. (b) of section 203 of Pub. L. 103-182 amended sections 81c, 1311 to 1313, and 1562 of this title. Subsec. (c) of section 203 of Pub. L. 103-182 amended section 1313 of this title.

EFFECTIVE DATE

Section effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as a note under section 3331 of this title.

¹ See References in Text note below.

§ 3334. Prohibition on drawback for television picture tubes

Notwithstanding any other provision of law, no customs duties may be refunded, waived, or reduced on color cathode-ray television picture tubes, including video monitor cathode-ray tubes (provided for in subheading 8540.11.00 of the HTS), that are nonoriginating goods under section 3332(p)(19) of this title and are—

(A) exported to a NAFTA country;

(B) used as a material in the production of other goods that are exported to a NAFTA country; or

(C) substituted for by goods of the same kind and quality used as a material in the production of other goods that are exported to a NAFTA country.

(Pub. L. 103-182, title II, §210, Dec. 8, 1993, 107 Stat. 2099.)

EFFECTIVE DATE

Section effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as a note under section 3331 of this title.

§ 3335. Monitoring of television and picture tube imports

(a) Monitoring

Beginning on the date the Agreement enters into force with respect to the United States, the United States Customs Service shall, for a period of 5 years, monitor imports into the United States of articles described in subheading 8528.10 of the HTS from NAFTA countries and shall take action to exercise all rights of the United States under chapter 5 of the Agreement with respect to such imports. The United States Customs Service shall take appropriate action under chapter 5 of the Agreement with respect to such imports, including verifications to ensure that the rules of origin under the Agreement are fully complied with and that the duty drawback obligations contained in article 303 and Annex 303.8 of the Agreement are fully implemented and duties are correctly assessed.

(b) Report to Trade Representative

The United States Customs Service shall make the results of the monitoring and verification required by subsection (a) of this section available to the President and the Trade Representative. If, based on such information, the President has reason to believe that articles described in subheading 8540.11 of the HTS, intended for ultimate consumption in the United States, are entering the territory of a NAFTA country inconsistent with the provisions of the Agreement, or have been undervalued in a manner that may raise concerns under United States trade laws, the President shall promptly take such action as may be appropriate under all relevant provisions of the Agreement, including article 317 and chapter 20, and under applicable United States trade statutes.

(Pub. L. 103-182, title II, §211, Dec. 8, 1993, 107 Stat. 2099.)

EFFECTIVE DATE

Section effective on the date the North American Free Trade Agreement enters into force with respect to

the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as a note under section 3331 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

NORTH AMERICAN FREE TRADE AGREEMENT: ENTRY INTO FORCE

The North American Free Trade Agreement entered into force on Jan. 1, 1994, see note set out under section 3311 of this title.

SUBCHAPTER III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

PART A—SAFEGUARDS

SUBPART 1—RELIEF FROM IMPORTS BENEFITING FROM AGREEMENT

§ 3351. Definitions

As used in this subpart:

(1) Canadian article

The term “Canadian article” means an article that—

(A) is an originating good under chapter 4 of the Agreement; and

(B) qualifies under the Agreement to be marked as a good of Canada.

(2) Mexican article

The term “Mexican article” means an article that—

(A) is an originating good under chapter 4 of the Agreement; and

(B) qualifies under the Agreement to be marked as a good of Mexico.

(Pub. L. 103-182, title III, §301, Dec. 8, 1993, 107 Stat. 2100.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original “this part”, meaning part 1 (§§301-308) of subtitle A of title III of Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2100, which enacted this subpart and provisions set out as a note under section 2112 of this title, and amended provisions set out as a note under section 2112 of this title.

EFFECTIVE DATE

Pub. L. 103-182, title III, §318, Dec. 8, 1993, 107 Stat. 2108, provided that: “Except as provided in section 308(b) [enacting provisions set out as a note under section 2112 of this title], the provisions of this subtitle [subtitle A (§§301-318) of title III of Pub. L. 103-182, enacting this part and amending section 2252 of this title and provisions set out as a note under section 2112 of this title] take effect on the date the Agreement enters into force with respect to the United States [Jan. 1, 1994].”

§ 3352. Commencing of action for relief

(a) Filing of petition

(1) In general

A petition requesting action under this subpart for the purpose of adjusting to the obliga-