

(iii) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(iv) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(3) Treatment of office under Freedom of Information Act

The office established or designated under paragraph (1) shall not be considered an agency for purposes of section 552 of title 5.

(b) Authorization of appropriations

There are authorized to be appropriated for each fiscal year after fiscal year 2020 to the Department of Commerce \$2,000,000 for—

(1) the operations of the office established or designated under subsection (a)(1); and

(2) the payment of the United States share of the expenses of—

(A) panels established under chapter 31 of the USMCA, including under Annex 31–A (relating to the Facility-Specific Rapid Response Labor Mechanism);

(B) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(C) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(c) Reimbursement of certain expenses

If the Canadian Section or the Mexican Section of the Secretariat provides funds to the United States Section during any fiscal year as reimbursement for expenses in connection with dispute settlement proceedings under section D of chapter 10 or chapter 31 of the USMCA, or under chapter 19 of NAFTA, the United States Section may, notwithstanding section 3302 of title 31, retain and use such funds to carry out the functions described in subsection (a)(2).

(Pub. L. 116–113, title I, § 105, Jan. 29, 2020, 134 Stat. 18.)

REFERENCES IN TEXT

Section 411(c)(2), referred to in subsec. (a)(2), means section 411(c)(2) of Pub. L. 116–113, but probably should be a reference to section 412(c)(2) of that Act, which establishes an interagency group and is classified to section 4582(c)(2) of this title.

The Freedom of Information Act, referred to in subsec. (a)(3), is section 552 of Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Proc. No. 10053, par. (8), June 29, 2020, 85 F.R. 39826, authorized The Secretary of Commerce to exercise the authority of the President under subsec. (a) of this section to establish or designate an office within the Department of Commerce to carry out the functions set forth in that subsection.

§ 4516. Trade Representative authority

If a country (other than the United States) that has signed the USMCA does not enact implementing legislation, the Trade Representative is authorized to enter into negotiations

with the other country that has signed the USMCA to consider how the applicable provisions of the USMCA can come into force with respect to the United States and that other country as promptly as possible.

(Pub. L. 116–113, title I, § 106, Jan. 29, 2020, 134 Stat. 19.)

SUBCHAPTER II—CUSTOMS PROVISIONS

§ 4531. Rules of origin

(a) Definitions

In this section:

(1) Aquaculture

The term “aquaculture” means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators.

(2) Customs Valuation Agreement

The term “Customs Valuation Agreement” means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 3511(d)(8) of this title.

(3) Fungible good or fungible material

The term “fungible good” or “fungible material” means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(4) Good wholly obtained or produced entirely in the territory of one or more USMCA countries

The term “good wholly obtained or produced entirely in the territory of one or more USMCA countries” means any of the following:

(A) A mineral good or other naturally occurring substance extracted or taken from the territory of one or more USMCA countries.

(B) A plant, plant good, vegetable, or fungus grown, cultivated, harvested, picked, or gathered in the territory of one or more USMCA countries.

(C) A live animal born and raised in the territory of one or more USMCA countries.

(D) A good obtained in the territory of one or more USMCA countries from a live animal.

(E) An animal obtained by hunting, trapping, fishing, gathering, or capturing in the territory of one or more USMCA countries.

(F) A good obtained in the territory of one or more USMCA countries from aquaculture.

(G) A fish, shellfish, or other marine life taken from the sea, seabed, or subsoil outside the territory of one or more USMCA countries and outside the territorial sea of any country that is not a USMCA country by—

(i) a vessel that is registered or recorded with a USMCA country and flying the flag of that country; or

(ii) a vessel that is documented under the laws of the United States.

(H) A good produced on board a factory ship from goods referred to in subparagraph (G), if such factory ship—

(i) is registered or recorded with a USMCA country and flies the flag of that country; or

(ii) is a vessel that is documented under the laws of the United States.

(I) A good, other than a good referred to in subparagraph (G), that is taken by a USMCA country, or a person of a USMCA country, from the seabed or subsoil outside the territory of a USMCA country, if that USMCA country has the right to exploit such seabed or subsoil.

(J) Waste and scrap derived from—

(i) production in the territory of one or more USMCA countries; or

(ii) used goods collected in the territory of one or more USMCA countries, if such goods are fit only for the recovery of raw materials.

(K) A good produced in the territory of one or more USMCA countries exclusively from goods referred to in any of subparagraphs (A) through (J), or from their derivatives, at any stage of production.

(5) Indirect material

The term “indirect material” means a material used or consumed in the production, testing, or inspection of a good but not physically incorporated into the good, or a material used or consumed in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used or consumed in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used or consumed in production or to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other material that is not incorporated into the good, if the use of the material in the production of the good can reasonably be demonstrated to be a part of that production.

(6) Intermediate material

The term “intermediate material” means a material that is self-produced, used or consumed in the production of a good, and designated as an intermediate material pursuant to subsection (d)(9).

(7) Material

The term “material” means a good that is used or consumed in the production of another good and includes a part or an ingredient.

(8) Net cost

The term “net cost” means total cost minus sales promotion, marketing, and after-sales

service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

(9) Net cost of a good

The term “net cost of a good” means the net cost that can be reasonably allocated to a good using one of the methods set forth in subsection (d)(7).

(10) Nonallowable interest costs

The term “nonallowable interest costs” means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

(11) Nonoriginating good or nonoriginating material

The term “nonoriginating good” or “nonoriginating material” means a good or material, as the case may be, that does not qualify as originating under this section.

(12) Originating good; originating material

The term “originating good” or “originating material” means a good or material, as the case may be, that qualifies as originating under this section.

(13) Packaging materials and containers

The term “packaging materials and containers” means materials and containers in which a good is packaged for retail sale.

(14) Packing materials and containers

The term “packing materials and containers” means materials and containers that are used to protect a good during transportation.

(15) Producer

The term “producer” means a person who engages in the production of a good.

(16) Production

The term “production” means—

(A) growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, breeding, extracting, manufacturing, processing, or assembling a good; or

(B) the farming of aquatic organisms through aquaculture.

(17) Reasonably allocate

The term “reasonably allocate” means to apportion in a manner appropriate to the circumstances.

(18) Recovered material

The term “recovered material” means a material in the form of individual parts that are the result of—

(A) the disassembly of a used good into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(19) Remanufactured good

The term “remanufactured good” means a good classified in the HTS under any of chapters 84 through 90 or under heading 9402, other

than a good classified under heading 8418, 8509, 8510, 8516, or 8703 or subheading 8414.51, 8450.11, 8450.12, 8508.11, or 8517.11, that—

(A) is entirely or partially composed of recovered materials;

(B) has a life expectancy similar to, and performs in a manner that is the same as or similar to, such a good when new; and

(C) has a factory warranty similar to that applicable to such a good when new.

(20) Royalties

The term “royalties” means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use of, or right to use, a copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, or secret formula or secret process, excluding payments under technical assistance or similar agreements that can be related to a specific service such as—

(A) personnel training, without regard to where the training is performed; or

(B) if performed in the territory of one or more USMCA countries, engineering, tooling, die-setting, software design and similar computer services, or other services.

(21) Sales promotion, marketing, and after-sales service costs

The term “sales promotion, marketing, and after-sales service costs” means the costs related to sales promotion, marketing, and after-sales service for the following:

(A) Sales and marketing promotion, media advertising, advertising and market research, promotional and demonstration materials, exhibits, sales conferences, trade shows, conventions, banners, marketing displays, free samples, sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, and sales aid information), establishment and protection of logos and trademarks, sponsorships, wholesale and retail charges, and entertainment.

(B) Sales and marketing incentives, consumer, retailer, or wholesaler rebates, and merchandise incentives.

(C) Salaries and wages, sales commissions, bonuses, benefits (such as medical, insurance, and pension benefits), traveling and living expenses, and membership and professional fees for sales promotion, marketing, and after-sales service personnel.

(D) Product liability insurance.

(E) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers.

(F) Payments by the producer to other persons for warranty repairs.

(G) If the costs are identified separately for sales promotion, marketing, or after-sales service of goods on the financial statements or cost accounts of the producer, the following:

(i) Property insurance premiums, taxes, utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers.

(ii) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers’ employees.

(iii) Office supplies for sales promotion, marketing, and after-sales service of goods.

(iv) Telephone, mail, and other communications.

(22) Self-produced material

The term “self-produced material” means a material that is produced by the producer of a good and used in the production of that good.

(23) Shipping and packing costs

The term “shipping and packing costs” means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale.

(24) Territory

The term “territory”, with respect to a USMCA country, has the meaning given that term in section C of chapter 1 of the USMCA.

(25) Total cost

(A) In general

The term “total cost”—

(i) means all product costs, period costs, and other costs for a good incurred in the territory of one or more USMCA countries; and

(ii) does not include—

(I) profits that are earned by the producer of the good, regardless of whether the costs are retained by the producer or paid out to other persons as dividends; or

(II) taxes paid on those profits, including capital gains taxes.

(B) Other definitions

In this paragraph:

(i) Other costs

The term “other costs” means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

(ii) Period costs

The term “period costs” means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

(iii) Product costs

The term “product costs” means costs that are associated with the production of a good, including the value of materials, direct labor costs, and direct overhead.

(26) Transaction value

The term “transaction value” means the price—

(A) actually paid or payable for a good or material with respect to a transaction of a producer; and

(B) adjusted in accordance with the principles set forth in paragraphs 1, 3, and 4 of article 8 of the Customs Valuation Agreement.

(27) USMCA country

The term “USMCA country” means the United States, Canada, or Mexico for such time as the USMCA is in force with respect to Canada or Mexico, and the United States applies the USMCA to Canada or Mexico.

(28) Value

The term “value” means the value of a good or material for purposes of calculating customs duties or applying this section.

(b) Application and interpretation

In this section:

(1) Tariff classification

The basis for any tariff classification is the HTS.

(2) Reference to HTS

Whenever in this section there is a reference to a chapter, heading, or subheading, that reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) Cost or value

Any cost or value referred to in this section with respect to a good shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the USMCA country in which the good is produced.

(c) Originating goods**(1) In general**

For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the USMCA, except as otherwise provided in this section, a good is an originating good if—

(A) the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries;

(B) the good is produced entirely in the territory of one or more USMCA countries using nonoriginating materials, if the good satisfies all applicable requirements set forth in Annex 4-B of the USMCA; or

(C) the good is produced entirely in the territory of one or more USMCA countries, exclusively from originating materials;

(D) except for a good provided for under any of chapters 61 through 63—

(i) the good is produced entirely in the territory of one or more USMCA countries;

(ii) one or more of the nonoriginating materials provided for as parts under the HTS and used in the production of the good do not satisfy the requirements set forth in Annex 4-B of the USMCA because—

(I) both the good and its materials are classified under the same subheading or under the same heading that is not further subdivided into subheadings; or

(II) the good was imported into the territory of a USMCA country in an unassembled form or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the HTS; and

(iii) the regional value content of the good is not less than 60 percent if the

transaction value method is used, or not less than 50 percent if the net cost method is used and the good satisfies all other applicable requirements of this section; or

(E) the good itself, as imported, is listed in table 2.10.1 of the USMCA and is imported into the territory of the United States from the territory of a USMCA country.

(2) Remanufactured goods

For purposes of determining whether a remanufactured good is an originating good, a recovered material derived in the territory of one or more USMCA countries shall be treated as originating if the recovered material is used or consumed in the production of, and incorporated into, the remanufactured good.

(3) Special rule for foreign-trade zones

Paragraph (1)(B) shall not apply to a good produced in a foreign-trade zone or subzone established pursuant to the Act of June 18, 1934 (commonly known as the “Foreign Trade Zones Act”) (19 U.S.C. 81a et seq.) that is entered for consumption in the customs territory of the United States.

(d) Regional value content**(1) In general**

Except as provided in paragraph (5), for purposes of subparagraphs (B) and (D) of subsection (c)(1), the regional value content of a good shall be calculated, at the choice of the importer, exporter, or producer of the good, on the basis of—

(A) the transaction value method described in paragraph (2); or

(B) the net cost method described in paragraph (3).

(2) Transaction value method**(A) In general**

An importer, exporter, or producer of a good may calculate the regional value content of the good on the basis of the following transaction value method:

$$\text{RVC} = \frac{\text{TV-VNM}}{\text{TV}} \times 100$$

(B) Definitions

In this paragraph:

(i) RVC

The term “RVC” means the regional value content of the good, expressed as a percentage.

(ii) TV

The term “TV” means the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good.

(iii) VNM

The term “VNM” means the value of nonoriginating materials used by the producer in the production of the good.

(3) Net cost method**(A) In general**

An importer, exporter, or producer of a good may calculate the regional value con-

tent of the good on the basis of the following net cost method:

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

(B) Definitions

In this paragraph:

(i) NC

The term “NC” means the net cost of the good.

(ii) RVC

The term “RVC” means the regional value content of the good, expressed as a percentage.

(iii) VNM

The term “VNM” means the value of nonoriginating materials used by the producer in the production of the good.

(4) Value of nonoriginating materials

(A) In general

The value of nonoriginating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph (2) or (3), include the value of nonoriginating materials used or consumed to produce originating materials that are subsequently used or consumed in the production of the good.

(B) Special rule for certain components

The following components of the value of nonoriginating materials used by the producer in the production of a good may be counted as originating content for purposes of determining whether the good meets the regional value content requirement set forth in Annex 4-B of the USMCA:

(i) The value of processing the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(ii) The value of any originating materials used or consumed in the production of the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(5) Net cost method required in certain cases

An importer, exporter, or producer of a good shall calculate the regional value content of the good solely on the basis of the net cost method described in paragraph (3) if the rule for the good set forth in Annex 4-B of the USMCA includes a regional value content requirement not based on the transaction value method described in paragraph (2).

(6) Net cost method allowed for adjustments

(A) In general

If an importer, exporter, or producer of a good calculates the regional value content of the good on the basis of the transaction value method described in paragraph (2) and a USMCA country subsequently notifies the importer, exporter, or producer, during the course of a verification conducted in accordance with chapter 5 or 6 of the USMCA, that the transaction value of the good or the

value of any material used in the production of the good must be adjusted or is unacceptable under article 1 of the Customs Valuation Agreement, the importer, exporter, or producer may calculate the regional value content of the good on the basis of the net cost method.

(B) Review of adjustment

Nothing in subparagraph (A) shall be construed to prevent any review or appeal available in accordance with article 5.15 of the USMCA with respect to an adjustment to or a rejection of—

(i) the transaction value of a good; or

(ii) the value of any material used in the production of a good.

(7) Calculating net cost

The producer of a good may, consistent with regulations implementing this section, calculate the net cost of the good under paragraph (3) by—

(A) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any sales promotion, marketing, and after-sales services costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of those goods, and then reasonably allocating the resulting net cost of those goods to the good;

(B) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the good, and subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs, that are included in the portion of the total cost allocated to the good; or

(C) reasonably allocating each cost that is part of the total cost incurred with respect to the good so that the aggregate of those costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs.

(8) Value of materials used in production

For purposes of calculating the regional value content of a good under this subsection, applying the de minimis rules under subsection (f), and calculating the value of nonoriginating components in a set under subsection (m), the value of a material used in the production of a good is—

(A) in the case of a material that is imported by the producer of the good, the transaction value of the material at the time of importation, including the costs incurred in the international shipment of the material;

(B) in the case of a material acquired in the territory in which the good is produced—

(i) the price paid or payable by the producer in the USMCA country where the producer is located;

(ii) the value as determined under subparagraph (A), as set forth in regulations prescribed by the Secretary of the Treasury providing for the application of trans-

action value in the absence of an importation by the producer; or

(iii) the earliest ascertainable price paid or payable in the territory of the country; or

(C) in the case of a self-produced material, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade or equal to the profit that is usually reflected in the sale of goods of the same class or kind as the material.

(9) Intermediate materials

(A) In general

Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for purposes of calculating the regional value content of the good under paragraph (2) or (3).

(B) Materials used in production of intermediate materials

If a self-produced material is designated as an intermediate material under subparagraph (A) for purposes of calculating a regional value content requirement, no other self-produced material subject to a regional value content requirement used or consumed in the production of that intermediate material may be designated by the producer as an intermediate material.

(10) Further adjustments to value of materials

The following expenses, if included in the value of a nonoriginating material calculated under paragraph (8), may be deducted from the value of the nonoriginating material:

(A) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

(B) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more USMCA countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(C) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(e) Accumulation

(1) Producers

A good that is produced in the territory of one or more USMCA countries, by one or more producers, is an originating good if the good satisfies the requirements of subsection (c) and all other applicable requirements of this section.

(2) Originating materials used in production of goods of a USMCA country

Originating materials from the territory of one or more USMCA countries that are used in the production of a good in the territory of another USMCA country shall be considered to

originate in the territory of such other USMCA country.

(3) Production undertaken on nonoriginating materials used in the production of goods

In determining whether a good is an originating good under this section, production undertaken on nonoriginating material in the territory of one or more USMCA countries by one or more producers shall contribute to the originating status of the good, regardless of whether that production is sufficient to confer originating status to the nonoriginating material.

(f) De minimis amounts of nonoriginating materials

(1) In general

Except as provided in paragraphs (2) through (4), a good that does not undergo a change in tariff classification or satisfy a regional value content requirement set forth in Annex 4-B of the USMCA is an originating good if—

(A) the value of all nonoriginating materials that are used in the production of the good, and do not undergo the applicable change in tariff classification set forth in Annex 4-B of the USMCA—

(i) does not exceed 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; or

(ii) does not exceed 10 percent of the total cost of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value content requirement for the good.

(2) Exceptions for dairy and other products

Paragraph (1) does not apply to the following:

(A) A nonoriginating material of headings 0401 through 0406, or a nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or 2106.90, used or consumed in the production of a good of headings 0401 through 0406.

(B) A nonoriginating material of headings 0401 through 0406, or nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or 2106.90, used or consumed in the production of any of the following goods:

(i) Infant preparations containing over 10 percent by dry weight of milk solids, of subheading 1901.10.

(ii) Mixes and doughs containing over 25 percent by dry weight of butterfat, not put up for retail sale, of subheading 1901.20.

(iii) A dairy preparation containing over 10 percent by dry weight of milk solids, of subheading 1901.90 or 2106.90.

(iv) A good of heading 2105.

(v) Beverages containing milk of subheading 2202.90.

(vi) Animal feeds containing over 10 percent by dry weight of milk solids of subheading 2309.90.

(C) A nonoriginating material of heading 0805, or any of subheadings 2009.11 through 2009.39, used or consumed in the production of a good of subheadings 2009.11 through 2009.39, or a fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, of subheading 2106.90 or 2202.90.

(D) A nonoriginating material of chapter 9 used or consumed in the production of instant coffee, not flavored, of subheading 2101.11.

(E) A nonoriginating material of chapter 15 used or consumed in the production of a good of any of headings 1501 through 1508¹ 1512, 1514, or 1515.

(F) A nonoriginating material of heading 1701 used or consumed in the production of a good of any of headings 1701 through 1703.

(G) A nonoriginating material of chapter 17 or heading 1805 used in the production of a good of subheading 1806.10.

(H) Nonoriginating peaches, pears, or apricots of chapter 8 or 20, used in the production of a good of heading 2008.

(I) A nonoriginating single juice ingredient of heading 2009 used or consumed in the production of a good of—

(i) subheading 2009.90, or tariff item 2106.90.54 (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins); or

(ii) tariff item 2202.99.37 (mixtures of fruit or vegetable juices, fortified with minerals or vitamins).

(J) A nonoriginating material of any of headings 2203 through 2208 used or consumed in the production of a good provided for under heading 2207 or 2208.

(3) Goods provided for under chapters 1 through 27

Paragraph (1) does not apply to a nonoriginating material used or consumed in the production of a good provided for in chapters 1 through 27 unless the nonoriginating material is provided for in a different subheading than the subheading of the good for which origin is being determined.

(4) Textile or apparel goods

(A) Goods classified under chapters 50 through 60

Except as provided in subparagraph (C), a textile or apparel good provided for in any of chapters 50 through 60 or heading 9619 that is not an originating good because certain nonoriginating materials used in the production of the good do not undergo an applicable change in tariff classification set forth in Annex 4-B of the USMCA, shall be considered to be an originating good if the total weight of all such materials, including elastomeric yarns, is not more than 10 percent of the total weight of the good and the good meets all other applicable requirements of this section.

(B) Goods classified under chapters 61 through 63

Except as provided in subparagraph (C), a textile or apparel good provided for in chapter 61, 62, or 63 that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set forth in Annex 4-B of the USMCA shall be considered to be an originating good if the total weight of all such fibers or yarns in the component, including elastomeric yarns, is not more than 10 percent of the total weight of the component and the good meets all other applicable requirements of this section.

(C) Goods containing nonoriginating elastomeric yarns

(i) Goods classified under chapters 50 through 60 or heading 9619

A textile or apparel good described in subparagraph (A) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the good do not exceed 7 percent of the total weight of the good.

(ii) Goods classified under chapters 61 through 63

A textile or apparel good described in subparagraph (B) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the component of the good that determines the tariff classification of the good do not exceed 7 percent of the total weight of the good.

(g) Fungible goods and materials

(1) Fungible materials used in production

Subject to paragraph (3), if originating and nonoriginating fungible materials are used or consumed in the production of a good, the determination of whether the materials are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(2) Fungible goods commingled and exported

Subject to paragraph (3), if originating and nonoriginating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(3) Use of inventory management method

A person that selects an inventory management method for purposes of paragraph (1) or (2) shall use that inventory management method throughout the fiscal year of the person.

(h) Accessories, spare parts, tools, and instructional or other information materials

(1) In general

Subject to paragraph (2), accessories, spare parts, tools, or instructional or other information materials delivered with a good shall—

¹ So in original. Probably should be followed by a comma.

(A) be treated as originating if the good is an originating good;

(B) be disregarded in determining whether a good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries or satisfies a process or change in tariff classification set forth in Annex 4-B of the USMCA; and

(C) be taken into account as originating or nonoriginating materials, as the case may be, in calculating any applicable regional value content of the good set forth in Annex 4-B of the USMCA.

(2) Conditions

Paragraph (1) shall apply only if—

(A) the accessories, spare parts, tools, or instructional or other information materials are classified with and delivered with, but not invoiced separately from, the good; and

(B) the types, quantities, and value of the accessories, spare parts, tools, or instructional or other information materials are customary for the good.

(i) Packaging materials and containers for retail sale

Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all of the nonoriginating materials used in the production of the good undergo the applicable process or change in tariff classification requirement set forth in Annex 4-B of the USMCA, or whether the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries. If the good is subject to a regional value content requirement set forth in that Annex, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value content of the good.

(j) Packing materials and containers for shipment

Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) Indirect materials

An indirect material shall be treated as an originating material without regard to where it is produced.

(l) Transit and transshipment

A good that has undergone production necessary to qualify as an originating good under subsection (c) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territory of a USMCA country, other than—

(A) unloading, reloading, separation from a bulk shipment, storing, labeling, or marking, as required by a USMCA country; or

(B) any other operation necessary to preserve the good in good condition or to transport the good to the territory of the importing USMCA country; or

(2) does not remain under the control of customs authorities in a country other than a USMCA country.

(m) Goods classifiable as goods put up in sets

(1) Goods other than textile or apparel goods

Notwithstanding the rules set forth in Annex 4-B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(2) Textile or apparel goods

Notwithstanding the rules set forth in Annex 4-B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(n) Nonqualifying operations

A good shall not be considered to be an originating good merely by reason of—

(1) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(2) any production or pricing practice with respect to which it may be demonstrated, by a preponderance of the evidence, that the object of the practice was to circumvent this section.

(o) Effective date

(1) In general

This section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) Transition from NAFTA treatment

Section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332),² as in effect on the day before the date on which the USMCA enters into force, shall continue to apply on and after that date with respect to a good entered for consumption, or withdrawn from warehouse for consumption, before that date.

(Pub. L. 116-113, title II, §202, Jan. 29, 2020, 134 Stat. 20; Pub. L. 116-260, div. O, title VI, §601(b), Dec. 27, 2020, 134 Stat. 2150.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States or HTS, referred to in subsecs. (a)(19), (b)(1), (2), (c)(1)(D)(ii), and (m), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This Act, referred to in subsec. (c)(1), 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

² See References in Text note below.

Short Title note set out under section 4501 of this title and Tables.

Act of June 18, 1934, referred to in subsec. (c)(3), is act June 18, 1934, ch. 590, 48 Stat. 998, popularly known as the Foreign Trade Zones Act, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 81a of this title and Tables.

Section 202 of the North American Free Trade Agreement Implementation Act, referred to in subsec. (o)(2), is section 202 of Pub. L. 103-183, 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).

AMENDMENTS

2020—Subsec. (c)(3). Pub. L. 116-260, §601(b)(1), added par. (3).

Subsec. (f)(2)(E). Pub. L. 116-260, §601(b)(2), substituted “any of headings 1501 through 1508” for “heading 1507, 1508.”

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.

§ 4532. Special rules for automotive goods

(a) Definitions

In this section:

(1) Alternative staging regime

The term “alternative staging regime” means the application, pursuant to subsection (d), of the requirements of article 8 of the automotive appendix to the production of covered vehicles to allow producers of such vehicles to bring such production into compliance with the requirements of articles 2 through 7 of that appendix.

(2) Alternative staging regime period

The term “alternative staging regime period” means the period during which the alternative staging regime is in effect.

(3) Automotive appendix

The term “automotive appendix” means the Appendix to Annex 4-B of the USMCA (relating to the product-specific rules of origin for automotive goods).

(4) Automotive good

The term “automotive good” means—

- (A) a covered vehicle; or
- (B) a part, component, or material listed in table A.1, A.2, B, C, D, or E of the automotive appendix.

(5) Automotive rules of origin

The term “automotive rules of origin” means the rules of origin for automotive goods set forth in the automotive appendix.

(6) Commissioner

The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(7) Covered vehicle

The term “covered vehicle” means a passenger vehicle, light truck, or heavy truck.

(8) Interagency committee

The term “interagency committee” means the interagency committee established under subsection (b)(1).

(9) Passenger vehicle; light truck; heavy truck

The terms “passenger vehicle”, “light truck”, and “heavy truck” have the meanings given those terms in article 1 of the automotive appendix.

(10) USMCA country

The term “USMCA country” means the United States, Canada, or Mexico for such time as the USMCA is in force with respect to Canada or Mexico, and the United States applies the USMCA to Canada or Mexico.

(b) Establishment of interagency committee

(1) In general

Not later than 30 days after January 29, 2020, the President shall establish an interagency committee—

(A) to provide advice, as appropriate, on the implementation, enforcement, and modification of provisions of the USMCA that relate to automotive goods, including the alternative staging regime; and

(B) to review the operation of the USMCA with respect to trade in automotive goods, including—

- (i) the economic effects of the automotive rules of origin on the United States economy, workers, and consumers; and
- (ii) the impact of new technology on such rules of origin.

(2) Members

The members of the interagency committee shall be the following:

- (A) The Trade Representative.
- (B) The Secretary of Commerce.
- (C) The Commissioner.
- (D) The Secretary of Labor.
- (E) The Chair of the International Trade Commission.

(F) Any other members determined to be necessary by the Trade Representative.

(3) Chair

The chair of the interagency committee shall be the Trade Representative.

(4) Use of information

(A) Information sharing

Notwithstanding any other provision of law, the members of the interagency committee may exchange information for purposes of carrying out this section.

(B) Confidentiality of information

The interagency committee and any Federal agency represented on the interagency committee may not disclose to the public any confidential documents or information received in the course of carrying out this section, except information aggregated to preserve confidentiality and used in the reports described in subsection (g).

(c) Certification requirements

(1) Certification relating to labor value content requirements

(A) In general

A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle—