

(B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.

(Pub. L. 116–113, §3, Jan. 29, 2020, 134 Stat. 13.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in text, 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.

The Harmonized Tariff Schedule of the United States, referred to in par. (2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

Section 101(a)(1) of the North American Free Trade Agreement Implementation Act, referred to in par. (6), is section 101(a)(1) of Pub. L. 103–182, title I, Dec. 8, 1993, 107 Stat. 2061, which was classified to section 3511 of this title prior to repeal by Pub. L. 116–113, title VI, §601, Jan. 29, 2020, 134 Stat. 78, effective on the date on which the USMCA entered into force (July 1, 2020).

#### SUBCHAPTER I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE USMCA

### § 4511. Approval and entry into force of the USMCA

#### (a) Approval of USMCA and statement of administrative action

Pursuant to section 4205 of this title and section 2191 of this title, Congress approves—

(1) the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as submitted to Congress on December 13, 2019;

(2) the Agreement between the United States of America, the United Mexican States, and Canada, attached as an Annex to the Protocol, as amended by the Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada, done at Mexico City on December 10, 2019, as submitted to Congress on December 13, 2019; and

(3) the statement of administrative action proposed to implement that Agreement, as submitted to Congress on December 13, 2019.

#### (b) Conditions for entry into force of the agreement

The President is authorized to provide for the USMCA to enter into force with respect to Canada and Mexico not earlier than 30 days after the date on which the President submits to Congress the written notice required by section 4205(a)(1)(G) of this title, which shall include the date on which the USMCA will enter into force.

(Pub. L. 116–113, title I, §101, Jan. 29, 2020, 134 Stat. 14.)

### § 4512. Relationship of the USMCA to United States and State law

#### (a) Relationship of USMCA to United States law

##### (1) United States law to prevail in conflict

No provision of the USMCA, nor the application of any such provision to any person or

circumstance, which is inconsistent with any law of the United States, shall have effect.

#### (2) Construction

Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

#### (b) Relationship of USMCA to State law

##### (1) Legal challenge

No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the USMCA, except in an action brought by the United States for the purpose of declaring such law or application invalid.

##### (2) Definition of State law

For purposes of this subsection, the term “State law” includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

#### (c) Effect of USMCA with respect to private remedies

No person other than the United States—

(1) shall have any cause of action or defense under the USMCA or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the USMCA.

(Pub. L. 116–113, title I, §102, Jan. 29, 2020, 134 Stat. 15.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), 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.

### § 4513. Implementing actions in anticipation of entry into force; initial regulations; tariff proclamation authority

#### (a) Implementing actions

##### (1) Proclamation authority

After January 29, 2020—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may prescribe such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the USMCA enters into force is appropriately im-

plemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the USMCA enters into force.

**(2) Effective date of certain proclaimed actions**

Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 4514 of this title may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

**(3) Waiver of 15-day restriction**

The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the USMCA enters into force of any action proclaimed under this section.

**(b) Initial regulations**

**(1) In general**

Except as provided by paragraph (2) or (3), initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action approved under section 4511(a)(2) of this title to implement the USMCA shall, to the maximum extent feasible, be prescribed within 1 year after the date on which the USMCA enters into force.

**(2) Uniform regulations**

Interim or initial regulations to implement the Uniform Regulations regarding rules of origin provided for under article 5.16 of the USMCA shall be prescribed not later than the date on which the USMCA enters into force.

**(3) Implementing actions with effective dates after entry into force**

In the case of any implementing action that takes effect on a date after the date on which the USMCA enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be prescribed within 1 year after such effective date.

**(c) Tariff modifications**

**(1) Tariff modifications provided for in the USMCA**

The President may proclaim—

- (A) such modifications or continuation of any duty,
- (B) such continuation of duty-free or excise treatment, or
- (C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 6.2, and 6.3, the Schedule of the United States to Annex 2-B, including the appendices to that Annex, Annex 2-C, and Annex 6-A, of the USMCA.

**(2) Other tariff modifications**

Subject to the consultation and layover provisions of section 4514 of this title, the President may proclaim—

- (A) such modifications or continuation of any duty,

(B) such modifications as the United States may agree to with a USMCA country regarding the staging of any duty treatment set forth in the Schedule of the United States to Annex 2-B of the USMCA, including the appendices to that Annex,

(C) such continuation of duty-free or excise treatment, or

(D) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to a USMCA country provided for by the USMCA.

**(3) Conversion to ad valorem rates**

For purposes of paragraphs (1) and (2), with respect to any good for which the base rate in the Schedule of the United States to Annex 2-B of the USMCA is a specific or compound rate of duty, the President shall substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

**(4) Tariff-rate quotas**

In implementing the tariff-rate quotas set forth in the Schedule of the United States to Annex 2-B of the USMCA, the President shall take such actions as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of agricultural goods in the United States.

**(5) Presidential proclamation authority relating to rules of origin**

**(A) In general**

The President may proclaim, as part of the HTS—

- (i) the provisions set forth in Annex 4-B of the USMCA;
- (ii) the provisions set forth in paragraph 2 of article 3.A.6 of Annex 3-A of the USMCA;
- (iii) the provisions set forth in paragraph 5 of Annex 3-B of the USMCA;
- (iv) the provisions set forth in paragraphs 14(b), 14(c), and 15(e) of Section B of Appendix 2 to Annex 2-B of the USMCA; and
- (v) any additional subordinate category that is necessary to carry out section 4531 of this title and section 4532 of this title consistent with the USMCA.

**(B) Modifications**

**(i) In general**

Subject to the consultation and layover provisions of section 4514 of this title, the President may proclaim modifications to the provisions proclaimed under the authority of subparagraph (A), other than the provisions of chapters 50 through 63 of the USMCA.

**(ii) Special rule for textiles**

Notwithstanding clause (i), and subject to the consultation and layover provisions of section 4514 of this title, the President may proclaim—

- (I) such modifications to the provisions proclaimed under the authority of sub-

paragraph (A) as are necessary to implement an agreement with one or more USMCA countries pursuant to article 6.4 of the USMCA; and

(II) before the end of the 1-year period beginning on the date on which the USMCA enters into force, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the USMCA.

(Pub. L. 116–113, title I, §103, Jan. 29, 2020, 134 Stat. 15.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (2) and (b)(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 Short Title note set out under section 4501 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF SUBSECTION (c)

Subsec. (c) of this section effective on the date the USMCA entered into force (July 1, 2020), see section 107(b) of Pub. L. 116–113, set out as a note under section 4501 of this title.

#### Executive Documents

##### DELEGATION OF FUNCTIONS

Proc. No. 10053, pars. (5), (6), June 29, 2020, 85 F.R. 39826, authorized the United States Trade Representative to exercise the authority of the President under subsec. (c)(4) of this section and the Committee for Implementation of Textile Agreements to exercise the authority of the President under subsec. (c)(1) of this section with respect to a good provided for under article 6.2 of the USMCA.

#### § 4514. Consultation and layover provisions for, and effective date of, proclaimed actions

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, that action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 2155 of this title; and

(B) the International Trade Commission, which shall hold a public hearing on the proposed action before providing advice regarding the proposed action;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the proposed action and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

(Pub. L. 116–113, title I, §104, Jan. 29, 2020, 134 Stat. 17.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in text, 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.

#### Executive Documents

##### DELEGATION OF FUNCTIONS

Proc. No. 10053, par. (7), June 29, 2020, 85 F.R. 39826, authorized the United States Trade Representative to fulfill the obligations of the President to obtain advice from the appropriate advisory committees and the International Trade Commission on the proposed implementation of an action by Presidential proclamation; to submit a report on such proposed action to the appropriate congressional committees; and to consult with those congressional committees regarding the proposed action.

#### § 4515. Administration of dispute settlement proceedings

##### (a) United States Section of Secretariat

###### (1) Establishment or designation of office

The President is authorized to establish or designate within the Department of Commerce an office to serve as the United States Section of the Secretariat established under article 30.6 of the USMCA.

###### (2) Functions and administrative assistance

The office established or designated under paragraph (1), subject to the oversight of the interagency group established under section 411(c)(2),<sup>1</sup> shall—

(A) carry out its functions within the Secretariat to facilitate the operation of the USMCA, including the operation of section D of chapter 10 and chapter 31 of the USMCA; and

(B) provide administrative assistance to—

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

(ii) technical advisers and experts provided for under chapter 31 of the USMCA;

(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.

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