



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

United States Code Annotated
Title 19. Customs Duties
Chapter 4. Tariff Act of 1930
Subtitle III. Administrative Provisions
Part III. Ascertainment, Collection, and Recovery of Duties

19 U.S.C.A. § 1516a

§ 1516a. Judicial review in countervailing duty and antidumping duty proceedings

Effective: July 1, 2020

[Currentness](#)

(a) Review of determination

(1) Review of certain determinations

Within 30 days after the date of publication in the Federal Register of--

(A) a determination by the administering authority, under 1671a(c)¹ or 1673a(c) of this title, not to initiate an investigation,

(B) a determination by the Commission, under [section 1675\(b\)](#) of this title, not to review a determination based upon changed circumstances,

(C) a negative determination by the Commission, under [section 1671b\(a\)](#) or [1673b\(a\)](#) of this title, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

(D) a final determination by the administering authority or the Commission under [section 1675\(c\)\(3\)](#) of this title,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(2) Review of determinations on record

(A) In general

Within thirty days after--

(i) the date of publication in the Federal Register of--

(I) notice of any determination described in clause (ii), (iii), (iv), (v), or (viii) of subparagraph (B),

(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or

(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(B) Reviewable determinations

The determinations which may be contested under subparagraph (A) are as follows:

(i) Final affirmative determinations by the administering authority and by the Commission under [section 1671d](#) or [1673d](#) of this title, including any negative part of such a determination (other than a part referred to in clause (ii)).

(ii) A final negative determination by the administering authority or the Commission under [section 1671d](#) or [1673d](#) of this title, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under [section 1675](#) of this title.

(iv) A determination by the administering authority, under [section 1671c](#) or [1673c](#) of this title, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net countervailable subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

(v) An injurious effect determination by the Commission under [section 1671c\(h\)](#) or [1673c\(h\)](#) of this title.

(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

(vii) A determination by the administering authority or the Commission under [section 3538](#) of this title concerning a determination under subtitle IV of this chapter.

(viii) A determination by the Commission under [section 1675b\(a\)\(1\)](#) of this title.

(3) Exception

Notwithstanding the limitation imposed by paragraph (2)(A)(i)(II) of this subsection, a final affirmative determination by the administering authority under [section 1671d](#) or [1673d](#) of this title may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under [section 1671d](#) or [1673d](#) of this title.

(4) Procedures and fees

The procedures and fees set forth in chapter 169 of Title 28 apply to an action under this section.

(5) Time limits in cases involving merchandise from free trade area countries

Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the day specified in whichever of the following subparagraphs applies:

(A) For a determination described in paragraph (1)(B) or clause (i), (ii) or (iii) of paragraph (2)(B), the 31st day after the date on which notice of the determination is published in the Federal Register.

(B) For a determination described in clause (vi) of paragraph (2)(B), the 31st day after the date on which the government of the relevant FTA country receives notice of the determination.

(C) For a determination with respect to which binational panel review has commenced in accordance with subsection (g) (8), the day after the date as of which--

(i) the binational panel has dismissed binational panel review of the determination for lack of jurisdiction, and

(ii) any interested party seeking review of the determination under paragraph (1), (2), or (3) of this subsection has provided timely notice under subsection (g)(3)(B).

If such an interested party files a summons and complaint under this subsection after dismissal by the binational panel, and if a request for an extraordinary challenge committee is made with respect to the decision by the binational panel to dismiss--

(I) judicial review under this subsection shall be stayed during consideration by the committee of the request, and

(II) the United States Court of International Trade shall dismiss the action if the committee vacates or remands the binational panel decision to dismiss.

(D) For a determination for which review by the United States Court of International Trade is provided for--

(i) under subsection (g)(12)(B), the day after the date of publication in the Federal Register of notice that article 10.12 of the USMCA has been suspended, or

(ii) under subsection (g)(12)(D), the day after the date that notice of settlement is published in the Federal Register.

(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.

(b) Standards of review

(1) Remedy

The court shall hold unlawful any determination, finding, or conclusion found--

(A) in an action brought under subparagraph (A), (B), or (C) of subsection (a)(1), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

(B)(i) in an action brought under paragraph (2) of subsection (a), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law, or

(ii) in an action brought under paragraph (1)(D) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Record for review

(A) In general

For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of--

(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by [section 1677f\(a\)\(3\)](#) of this title; and

(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

(B) Confidential or privileged material

The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

(3) Effect of decisions by United States-Canada or USMCA binational panels

In making a decision in any action brought under subsection (a), a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the Agreement or article 10.12 of the USMCA.

(c) Liquidation of entries

(1) Liquidation in accordance with determination

Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of a decision of the United States Court of International Trade, or of the United States Court of Appeals for the Federal Circuit, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

(2) Injunctive relief

In the case of a determination described in paragraph (2) of subsection (a) by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

(3) Remand for final disposition

If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

(d) Standing

Any interested party who was a party to the proceeding under [section 1303](#) of this title or subtitle IV of this chapter shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.

(e) Liquidation in accordance with final decision

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit--

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

(2) entries, the liquidation of which was enjoined under subsection (c)(2),

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(f) Definitions

For purposes of this section--

(1) Administering authority

The term “administering authority” means the administering authority described in [section 1677\(1\)](#) of this title.

(2) Commission

The term “Commission” means the United States International Trade Commission.

(3) Interested party

The term “interested party” means any person described in [section 1677\(9\)](#) of this title.

(4) Secretary

The term “Secretary” means the Secretary of the Treasury.

(5) Agreement

The term “Agreement” means the United States-Canada Free-Trade Agreement.

(6) United States Secretary

The term “United States Secretary” means--

- (A) the secretary for the United States Section referred to in article 10.16 of the USMCA, and
- (B) the secretary of the United States Section provided for in article 1909 of the Agreement.

(7) Relevant FTA Secretary

The term “relevant FTA Secretary” means the Secretary--

- (A) referred to in article 10.16 of the USMCA, or
- (B) provided for in paragraph 5 of article 1909 of the Agreement,
of the relevant FTA country.

(8) Relevant FTA country

The term “relevant FTA country” means the free trade area country to which an antidumping or countervailing duty proceeding pertains.

(9) Free trade area country

The term “free trade area country” means the following:

- (A) Canada for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Canada.
- (B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.
- (C) Canada for such time as--
 - (i) it is not a free trade area country under subparagraph (A); and
 - (ii) the Agreement is in force with respect to, and the United States applies the Agreement to, Canada.

(10) USMCA

The term “USMCA” has the meaning given that term in [section 4502](#) of this title.

(g) Review of countervailing duty and antidumping duty determinations involving free trade area country merchandise

(1) “Determination” defined

For purposes of this subsection, the term “determination” means a determination described in--

(A) paragraph (1)(B) of subsection (a), or

(B) clause (i), (ii), (iii), (vi), or (vii) of paragraph (2)(B) of subsection (a),

if made in connection with a proceeding regarding a class or kind of free trade area country merchandise, as determined by the administering authority.

(2) Exclusive review of determination by binational panels

If binational panel review of a determination is requested pursuant to article 1904 of the Agreement or article 10.12 of the USMCA, then, except as provided in paragraphs (3) and (4)--

(A) the determination is not reviewable under subsection (a), and

(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

(3) Exception to exclusive binational panel review

(A) In general

A determination is reviewable under subsection (a) if the determination sought to be reviewed is--

(i) a determination as to which neither the United States nor the relevant FTA country requested review by a binational panel pursuant to article 1904 of the Agreement or article 10.12 of the USMCA;²

(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a), if neither the United States nor the relevant FTA country requested review of the original determination,

(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) prior to the entry into force of the Agreement or the USMCA,

- (iv) a determination which a binational panel has determined is not reviewable by the binational panel,
- (v) a determination as to which binational panel review has terminated pursuant to article 10.13 of the USMCA, or
- (vi) a determination as to which extraordinary challenge committee review has terminated pursuant to article 10.13 of the USMCA.

(B) Special rule

A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to--

- (i) the United States Secretary and the relevant FTA Secretary;
- (ii) all interested parties who were parties to the proceeding in connection with which the matter arises; and
- (iii) the administering authority or the Commission, as appropriate.

Such notice is timely provided if the notice is delivered no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination, except that, if the time for requesting binational panel review is suspended under paragraph (8)(A)(ii) of this subsection, any unexpired time for providing notice of intent to commence judicial review shall, during the pendency of any such suspension, also be suspended. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(4) Exception to exclusive binational panel review for constitutional issues

(A) Constitutionality of binational panel review system

An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the United States-Canada Free-Trade Agreement Implementation Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, or the United States-Mexico-Canada Agreement Implementation Act implementing the binational panel dispute settlement system under chapter 10 of the USMCA, violates the Constitution may be brought only in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of such action.

(B) Other constitutional review

Review is available under subsection (a) with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

(C) Commencement of review

Notwithstanding the time limits in subsection (a), within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

(D) Transfer of actions to appropriate court

Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

(E) Frivolous claims

Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under [section 1927 of Title 28](#) and the Federal Rules of Civil Procedure.

(F) Security

(i) Subparagraph (A) actions

The security requirements of [rule 65\(c\) of the Federal Rules of Civil Procedure](#) apply with respect to actions commenced under subparagraph (A).

(ii) Subparagraph (B) actions

No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

(G) Panel record

The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

(H) Appeal to Supreme Court of court orders issued in subparagraph (A) actions

Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

(5) Liquidation of entries

(A) Application

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement or article 10.12 of the USMCA, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c).

(B) General rule

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement or article 10.12 of the USMCA, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

(C) Suspension of liquidation

(i) In general

Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) for which binational panel review is requested pursuant to article 1904 of the Agreement or article 10.12 of the USMCA, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

(ii) Notice

At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the relevant FTA Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

(iii) Application of suspension

If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in [subparagraph \(C\), \(D\), \(E\), or \(F\) of section 1677\(9\)](#) of this title, the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the Agreement or chapter 10 of the USMCA.

(iv) Judicial review

Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(6) Injunctive relief

Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement or article 10.12 of the USMCA, the provisions of subsection (c)(2) shall not apply.

(7) Implementation of international obligations under article 1904 of the Agreement or article 10.12 of the USMCA

(A) Action upon remand

If a determination is referred to a binational panel or extraordinary challenge committee under article 1904 of the Agreement or article 10.12 of the USMCA and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(B) Application if subparagraph (A) held unconstitutional

In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(8) Requests for binational panel review

(A) Interested party requests for binational panel review

(i) General rule

An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A), (B), or (E) of subsection (a)(5) that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement or article 10.12 of the USMCA. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(ii) Suspension of time to request binational panel review under the USMCA

Notwithstanding clause (i), the time for requesting binational panel review shall be suspended during the pendency of any stay of binational panel review that is issued pursuant to article 10.13 of the USMCA.

(B) Service of request for binational panel review

(i) Service by interested party

If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(ii) Service by United States Secretary

If an interested party to the proceeding requests binational panel review of a determination by filing a request with the relevant FTA Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(C) Limitation on request for binational panel review

Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review of a determination under article 1904 of the Agreement or article 10.12 of the USMCA.

(9) Representation in panel proceedings

In the case of binational panel proceedings convened under chapter 19 of the Agreement or chapter 10 of the USMCA, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

(10) Notification of class or kind rulings

In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the Agreement or under article 10.12 of the USMCA.

(11) Suspension and termination of suspension of article 10.12 of the USMCA

(A) Suspension

If a special committee established under article 10.13 of the USMCA issues an affirmative finding, the Trade Representative may, in accordance with article 10.13 of the USMCA, suspend the operation of article 10.12 of the USMCA.

(B) Termination of suspension

If a special committee is reconvened and makes an affirmative determination described in article 10.13 of the USMCA, any suspension of the operation of article 10.12 of the USMCA shall terminate.

(12) Judicial review upon termination of binational panel or committee review under the USMCA

(A) Notice of suspension or termination of suspension of article 10.12 of the USMCA

(i) Notice of suspension

Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the operation of article 10.12 of the USMCA has been suspended in accordance with article 10.13 of the USMCA, the United States Secretary shall publish in the Federal Register a notice of suspension of article 10.12 of the USMCA.

(ii) Notice of termination of suspension

Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the suspension of the operation of article 10.12 of the USMCA is terminated in accordance with article 10.13 of the USMCA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 10.12 of the USMCA.

(B) Transfer of final determinations for judicial review upon suspension of article 10.12 of the USMCA

If the operation of article 10.12 of the USMCA is suspended in accordance with article 10.13 of the USMCA--

(i) upon the request of an authorized person described in subparagraph (C), any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a); or

(ii) in a case in which--

(I) a binational panel review was completed fewer than 30 days before the suspension, and

(II) extraordinary challenge committee review has not been requested,

upon the request of an authorized person described in subparagraph (C) which is made within 60 days after the completion of the binational panel review, the final determination that was the subject of the binational panel review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

(C) Persons authorized to request transfer of final determinations for judicial review

A request that a final determination be transferred to the Court of International Trade under subparagraph (B) may be made by--

(i) if the United States made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA--

(I) the government of the relevant country described in subparagraph (A) or (B) of subsection (f)(9),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired, or

(ii) if a country described in subparagraph (A) or (B) of subsection (f)(9) made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA--

(I) the government of that country,

(II) an interested party that is a person of that country and that was a party to the panel or committee review, or

(III) an interested party that is a person of that country and that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired.

(D) Transfer for judicial review upon settlement

(i) If the Trade Representative achieves a settlement with the government of a country described in subparagraph (A) or (B) of subsection (f)(9) pursuant to article 10.13 of the USMCA, and referral for judicial review is among the terms of such settlement, any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall, upon a request described in clause (ii), be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

(ii) A request referred to in clause (i) is a request made by--

(I) the country referred to in clause (i),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time for filing notices of appearance in the panel review has not expired.

CREDIT(S)

(June 17, 1930, c. 497, Title IV, § 516A, as added [Pub.L. 96-39, Title X, § 1001\(a\)](#), July 26, 1979, 93 Stat. 300; amended [Pub.L. 96-417, Title VI, §§ 601\(7\), 608](#), Oct. 10, 1980, 94 Stat. 1744, 1745; [Pub.L. 96-542, § 2](#), Dec. 17, 1980, 94 Stat. 3210; [Pub.L. 97-164, Title I, § 163\(a\)\(2\)](#), Apr. 2, 1982, 96 Stat. 49; [Pub.L. 98-573, Title VI, § 623\(a\)](#), Oct. 30, 1984, 98 Stat. 3040; [Pub.L. 99-514, Title XVIII, § 1888\(6\)](#), Oct. 22, 1986, 100 Stat. 2925; [Pub.L. 100-449, Title IV, § 401](#), Sept. 28, 1988, 102 Stat. 1878; [Pub.L. 101-382, Title I, § 134\(a\)\(3\)](#), Aug. 20, 1990, 104 Stat. 649; [Pub.L. 103-182, Title IV, § 411](#), Dec. 8, 1993, 107 Stat. 2140; [Pub.L. 103-465, Title I, § 129\(e\), Title II, §§ 220\(b\), 270\(a\)\(1\)\(N\), 271\(b\)](#), Dec. 8, 1994, 108 Stat. 4838, 4864, 4917, 4921; [Pub.L. 104-295, §§ 20\(a\)\(1\), 21\(c\)\(3\)](#), 22, Oct. 11, 1996, 110 Stat. 3526, 3530, 3531; [Pub.L. 109-432, Div. D, Title III, § 3002](#), Dec. 20, 2006, 120 Stat. 3173; [Pub.L. 116-113, Title IV, § 421](#), Jan. 29, 2020, 134 Stat. 61.)

TERMINATION OF AMENDMENT

<For termination of amendment by section 501(c) of [Pub.L. 100-449](#), see Sunset Provisions note set out under this section.>

TERMINATION OF USMCA (AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA)

<During any period in which a country ceases to be a USMCA country, this Act and the amendments made by this Act (United States-Mexico-Canada Agreement Implementation Act, [Pub.L. 116-113](#)) shall cease to have effect with respect to that country, and on the date on which the USMCA ceases to be in force with respect to the United States, this Act and the amendments made by this Act shall cease to have effect, see [Pub.L. 116-113, Title VI, § 621](#), set out as [19 U.S.C.A. § 4621](#).>

Notes of Decisions (687)

Footnotes

- 1 So in original. Probably should be preceded by “section”.
- 2 So in original. The semicolon probably should be a comma.

19 U.S.C.A. § 1516a, 19 USCA § 1516a

Current through P.L. 118-78. Some statute sections may be more current, see credits for details.

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