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B-337028

February 3, 2025

The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Homeland Security, U.S. Customs and Border Protection; Department of the Treasury: Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) Implementing Regulations Related to Textile and Apparel Goods, Automotive Goods, and Other USMCA Provisions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security, U.S. Customs and Border Protection (CBP); and the Department of the Treasury (collectively, the Agencies) titled "Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) Implementing Regulations Related to Textile and Apparel Goods, Automotive Goods, and Other USMCA Provisions" (RIN 1685-AA00 (formerly RIN 1515-AE65)). We received the rule on January 16, 2025. It was published in the *Federal Register* on January 17, 2025. 90 Fed. Reg. 6456. The effective date of the rule is March 18, 2025.

According to CBP, this interim final rule (IFR) amends CBP regulations to add implementing regulations for the preferential tariff treatment and related customs provisions of the USMCA with respect to general definitions, drawback and duty-deferral programs, textile and apparel goods, and automotive goods. CBP stated that the IFR also amends the regulations to implement the temporary admission of goods, to delineate recordkeeping and protest requirements, to clarify the fee provisions, and to make conforming amendments, including technical corrections to other laws as required by statute.

Enclosed is our assessment of the Agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the IFR. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the IFR, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Robert F. Altneu
Director, Regulations & Disclosure Law
U.S. Customs and Border Protection

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION;
DEPARTMENT OF THE TREASURY
TITLED
“AGREEMENT BETWEEN THE UNITED STATES OF AMERICA,
THE UNITED MEXICAN STATES, AND CANADA (USMCA)
IMPLEMENTING REGULATIONS RELATED TO TEXTILE AND APPAREL GOODS,
AUTOMOTIVE GOODS, AND OTHER USMCA PROVISIONS”
(RIN 1685-AA00 (FORMERLY RIN 1515-AE65))

(i) Cost-benefit analysis

The Department of Homeland Security, U.S. Customs and Border Protection (CBP); and the Department of the Treasury did not prepare an analysis of the costs and benefits of this interim final rule (IFR). CBP stated that rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 12866, as amended by Executive Order 14094, which would otherwise require an analysis of the costs and benefits. CBP also stated that the IFR involves a foreign affairs function of the United States by implementing a specific trilateral agreement negotiated between the United States, Mexico, and Canada; therefore, the IFR is not subject to the provisions of Executive Order 12866, as amended by Executive Order 14094. 90 Fed. Reg. 6456, 6478 (Jan. 17, 2025).

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

According to CBP, because a notice of proposed rulemaking is not necessary for this IFR, CBP is not required to prepare a regulatory flexibility analysis. 90 Fed. Reg. at 6478.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

In its submission to us, CBP indicated that the Act is not applicable to this IFR.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

According to CBP, this IFR is exempt from the Act’s rulemaking requirements pursuant to 5 U.S.C. § 553(a)(1) as a foreign affairs function of the United States because it implements the preferential tariff treatment and customs related provisions of the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), which is a specific trilateral agreement negotiated between the United States, Mexico, and Canada. *See generally* Pub. L. No. 116-113, 134 Stat. 11 (Jan. 29, 2020). CBP stated that the IFR implements trilaterally agreed upon provisions in the USMCA, the Uniform Regulations regarding the Rules of Origin, and the Uniform Regulations regarding Origin Procedures. 90 Fed. Reg. at 6477.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

CBP determined that this IFR contains information collection requirements under the Act. 90 Fed. Reg. at 6478.

Statutory authorization for the rule

CBP promulgated this IFR pursuant to chapter 29 of title 19, United States Code, and Public Law 116-260 (Dec. 27, 2020).

Executive Order No. 12866 (Regulatory Planning and Review)

CBP stated that rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 12866, as amended by Executive Order 14094, which would otherwise require an analysis of the costs and benefits. CBP also stated that this IFR involves a foreign affairs function of the United States by implementing a specific trilateral agreement negotiated between the United States, Mexico, and Canada; therefore, the IFR is not subject to the provisions of Executive Order 12866, as amended by Executive Order 14094. 90 Fed. Reg. 6456, 6478 (Jan. 17, 2025).

Executive Order No. 13132 (Federalism)

In its submission to us, CBP indicated that the Order is not applicable to this IFR.