creased the likelihood that those diamonds not so controlled are being imported into the United States; and

(4) identifying any problems or obstacles encountered in the implementation of this chapter or the Kimberly[1] Process Certification Scheme.

(b) Semiannual reports

For each country identified in subsection (a)(3), the President, during such period as this chapter is in effect, shall, every 6 months after the initial report in which the country was identified, transmit to the Congress a report that explains what actions have been taken by the United States or such country since the previous report to ensure that diamonds the exportation of which was not controlled through the Kimberley Process Certification Scheme are not being imported from that country into the United States. The requirement to issue a semiannual report with respect to a country under this subsection shall remain in effect until such time as the country is controlling the importation and exportation of rough diamonds through the Kimberley Process Certification Scheme.

(Pub. L. 108–19, § 12, Apr. 25, 2003, 117 Stat. 636.)

DELEGATION OF FUNCTIONS

For assignment of functions of President under this section, see section 2 of Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, set out as a note under section 3901 of this title.

§ 3912. GAO report

Not later than 24 months after the effective date of this chapter, the Comptroller General of the United States shall transmit a report to the Congress on the effectiveness of the provisions of this chapter in preventing the importation or exportation of rough diamonds that is prohibited under section 3903 of this title. The Comptroller General shall include in the report any recommendations on any modifications to this chapter that may be necessary.

(Pub. L. 108–19, § 13, Apr. 25, 2003, 117 Stat. 636.)

REFERENCES IN TEXT

For effective date of this chapter, see section 15 of Pub. L. 108–19, set out as an Effective Date note under section 3901 of this title.

§ 3913. Delegation of authorities

The President may delegate the duties and authorities under this chapter to such officers, officials, departments, or agencies of the United States Government as the President deems appropriate.

(Pub. L. 108–19, § 14, Apr. 25, 2003, 117 Stat. 636.)

CHAPTER 26—DOMINICAN REPUBLIC-CENTRAL AMERICA FREE TRADE

Sec.
4001. Purposes.
4002. Definitions.

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

4011. Approval and entry into force of the Agreement.
4012. Relationship of the Agreement to United States and State law.
4013. Implementing actions in anticipation of entry into force and initial regulations.
4014. Consultation and layover provisions for, and effective date of, proclaimed actions.
4015. Administration of dispute settlement proceedings.
4016. Arbitration of claims.

SUBCHAPTER II—CUSTOMS PROVISIONS

4031. Tariff modifications.
4032. Additional duties on certain agricultural goods.
4033. Rules of origin.
4034. Retroactive application for certain liquidations and reliquidations of textile or apparel goods.
4035. Enforcement relating to trade in textile or apparel goods.
4036. Regulations.

SUBCHAPTER III—RELIEF FROM IMPORTS

4051. Definitions.

PART A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

4061. Commencing of action for relief.
4062. Commission action on petition.
4063. Provision of relief.
4064. Termination of relief authority.
4065. Compensation authority.

PART B—TEXTILE AND APPAREL SAFEGUARD MEASURES

4081. Commencement of action for relief.
4082. Determination and provision of relief.
4083. Period of relief.
4084. Articles exempt from relief.
4085. Rate after termination of import relief.
4086. Termination of relief authority.
4087. Compensation authority.
4088. Confidential business information.

PART C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

4101. Findings and action on goods of CAFTA–DR countries.

SUBCHAPTER IV—MISCELLANEOUS

4111. Periodic reports and meetings on labor obligations and labor capacity-building provisions.
4112. Earned import allowance program.

TERMINATION OF CHAPTER

For termination of chapter by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note set out under section 4001 of this title.

§ 4001. Purposes

The purposes of this chapter are—

(1) to approve and implement the Free Trade Agreement between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua entered into under the authority of section 3803(b) of this title;

(2) to strengthen and develop economic relations between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua for their mutual benefit;

(3) to establish free trade between the United States, Costa Rica, the Dominican Re-

[1] So in original. Probably should be ''Kimberley''.

public, El Salvador, Guatemala, Honduras, and Nicaragua through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

(Pub. L. 109–53, § 2, Aug. 2, 2005, 119 Stat. 463.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE AND TERMINATION DATES

Pub. L. 109–53, title I, § 107, Aug. 2, 2005, 119 Stat. 466, provided that:

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act [see Short Title note set out below] and the amendments made by this Act take effect on the date the Agreement [Dominican Republic-Central America-United States Free Trade Agreement] enters into force [Mar. 1, 2006].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title [enacting this section, section 4002 of this title, and provisions set out as a note below] take effect on the date of the enactment of this Act [Aug. 2, 2005].

''(c) TERMINATION OF CAFTA–DR STATUS.—During any period in which a country ceases to be a CAFTA–DR country, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect with respect to that country.

''(d) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force with respect to the United States, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.''

SHORT TITLE

Pub. L. 109–53, § 1(a), Aug. 2, 2005, 119 Stat. 462, provided that: ''This Act [enacting this chapter, amending sections 58c, 1508, 1514, 1520, 1592, 2252, 2518, 2702, and 2703 of this title, and enacting provisions set out as notes under this section and section 2702 of this title] may be cited as the 'Dominican Republic-Central America-United States Free Trade Agreement Implementation Act'.''

§ 4002. Definitions

In this chapter:

(1) Agreement

The term ''Agreement'' means the Dominican Republic-Central America-United States Free Trade Agreement approved by the Congress under section 4011(a)(1) of this title.

(2) CAFTA–DR country

Except as provided in section 4033 of this title, the term ''CAFTA–DR country'' means—

(A) Costa Rica, for such time as the Agreement is in force between the United States and Costa Rica;

(B) the Dominican Republic, for such time as the Agreement is in force between the United States and the Dominican Republic;

(C) El Salvador, for such time as the Agreement is in force between the United States and El Salvador;

(D) Guatemala, for such time as the Agreement is in force between the United States and Guatemala;

(E) Honduras, for such time as the Agreement is in force between the United States and Honduras; and

(F) Nicaragua, for such time as the Agreement is in force between the United States and Nicaragua.

(3) Commission

The term ''Commission'' means the United States International Trade Commission.

(4) HTS

The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

(5) Textile or apparel good

The term ''textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 3511(d)(4) of this title, other than a good listed in Annex 3.29 of the Agreement.

(Pub. L. 109–53, § 3, Aug. 2, 2005, 119 Stat. 463.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Harmonized Tariff Schedule of the United States, referred to in par. (4), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

EFFECTIVE AND TERMINATION DATES

Section effective Aug. 2, 2005, and to cease to have effect on date Dominican Republic-Central America-United States Free Trade Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

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

§ 4011. Approval and entry into force of the Agreement

(a) Approval of Agreement and statement of administrative action

Pursuant to section 3805 of this title and section 2191 of this title, the Congress approves—

(1) the Dominican Republic-Central America-United States Free Trade Agreement entered into on August 5, 2004, with the Governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, and submitted to the Congress on June 23, 2005; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on June 23, 2005.

(b) Conditions for entry into force of the Agreement

At such time as the President determines that countries listed in subsection (a)(1) have taken measures necessary to comply with the provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to provide for the Agreement to enter into force with respect to those countries that provide for the Agreement to enter into force for them.

(Pub. L. 109–53, title I, § 101, Aug. 2, 2005, 119 Stat. 464.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4012. Relationship of the Agreement to United States and State law

(a) Relationship of Agreement to United States law

(1) United States law to prevail in conflict

No provision of the Agreement, 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 chapter 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 chapter.

(b) Relationship of Agreement 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 Agreement, 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 Agreement with respect to private remedies

No person other than the United States—

(1) shall have any cause of action or defense under the Agreement 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 Agreement.

(Pub. L. 109–53, title I, § 102, Aug. 2, 2005, 119 Stat. 464.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4013. Implementing actions in anticipation of entry into force and initial regulations

(a) Implementing actions

(1) Proclamation authority

After August 2, 2005—

(A) the President may proclaim such actions, and

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

as may be necessary to ensure that any provision of this chapter, or amendment made by this chapter, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

(2) Effective date of certain proclaimed actions

Any action proclaimed by the President under the authority of this chapter that is not subject to the consultation and layover provisions under section 4014 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 the Agreement enters into force of any action proclaimed under this section.

(b) Initial regulations

Initial regulations necessary or appropriate to carry out the actions required by or authorized

under this chapter or proposed in the statement of administrative action submitted under section 4011(a)(2) of this title to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

(Pub. L. 109–53, title I, § 103, Aug. 2, 2005, 119 Stat. 465.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2) and (b), was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4014. Consultation and layover provisions for, and effective date of, proclaimed actions

If a provision of this chapter provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such 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 Commission;

(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 action proposed to be proclaimed 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 such Committees regarding the proposed action during the period referred to in paragraph (3).

(Pub. L. 109–53, title I, § 104, Aug. 2, 2005, 119 Stat. 465.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PROC. NO. 7987. TO IMPLEMENT THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10829, provided in par. (8) that the United States Trade Representative is authorized to exercise the President's authority under this section to obtain advice from the appropriate advisory committees and the United States 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.

§ 4015. Administration of dispute settlement proceedings

(a) Establishment or designation of office

The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be 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 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

(Pub. L. 109–53, title I, § 105, Aug. 2, 2005, 119 Stat. 466.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with re-

spect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

DELEGATION OF FUNCTIONS

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10828, provided in par. (3) that the Secretary of Commerce is authorized to exercise the President's authority 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 this section.

§ 4016. Arbitration of claims

The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

(Pub. L. 109–53, title I, § 106, Aug. 2, 2005, 119 Stat. 466.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

SUBCHAPTER II—CUSTOMS PROVISIONS

§ 4031. Tariff modifications

(a) Tariff modifications provided for in the Agreement

(1) Proclamation authority

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 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

(2) Effect on GSP status

Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date the Agreement enters into force with respect to that country.

(3) Effect on CBERA status

(A) In general

Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary country for purposes of that Act [19 U.S.C. 2701 et seq.] on the date the Agreement enters into force with respect to that country.

(B) Exception

Notwithstanding subparagraph (A), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2702(a)], for purposes of—

(i) sections 1677(7)(G)(ii)(III) and 1677(7)(H) of this title;

(ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

(iii) section 274(h)(6)(B) of title 26.

(b) Other tariff modifications

Subject to the consultation and layover provisions of section 4014 of this title, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with a CAFTA–DR country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

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

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement.

(c) Conversion to ad valorem rates

For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(Pub. L. 109–53, title II, § 201, Aug. 2, 2005, 119 Stat. 467.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a)(2), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§ 2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (a)(3)(A), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, as amended, which is classified principally to chapter 15 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in

force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4032. Additional duties on certain agricultural goods

(a) General provisions

(1) Applicability of subsection

This subsection applies to additional duties assessed under subsection (b).

(2) Applicable NTR (MFN) rate of duty

For purposes of subsection (b), the term ''applicable NTR (MFN) rate of duty'' means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

(3) Schedule rate of duty

For purposes of subsection (b), the term ''schedule rate of duty'' means, with respect to a safeguard good, the rate of duty for that good that is set out in the Schedule of the United States to Annex 3.3 of the Agreement.

(4) Safeguard good

In this section, the term ''safeguard good'' means a good—

(A) that is included in the Schedule of the United States to Annex 3.15 of the Agreement;

(B) that qualifies as an originating good under section 4033 of this title, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(5) Exceptions

No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) part A of subchapter III of this chapter; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) Termination

The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

(7) Notice

Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

(b) Additional duties on safeguard goods

(1) In general

In addition to any duty proclaimed under subsection (a) or (b) of section 4031 of this title, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CAFTA–DR country imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) Calculation of additional duty

The additional duty on a safeguard good under this subsection shall be—

(A) in the case of a good classified under subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35, or 2008.11.60 of the HTS—

(i) in years 1 through 5, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 11 through 14, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in the case of any other safeguard good—

(i) in years 1 through 14, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 15 through 17, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 18 and 19, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

(Pub. L. 109–53, title II, § 202, Aug. 2, 2005, 119 Stat. 468.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

Part A of subchapter III of this chapter, referred to in subsec. (a)(5)(A), was in the original ''subtitle A of title

III of this Act'', meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted part A of subchapter III (§ 4061 et seq.) of this chapter and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

The Trade Act of 1974, referred to in subsec. (a)(5)(B), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4033. Rules of origin

(a) 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, such 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 shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether the United States or another CAFTA–DR country).

(b) Originating goods

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

(1) the good is a good wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries;

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA–DR countries, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA–DR countries, exclusively from materials described in paragraph (1) or (2).

(c) Regional value-content

(1) In general

For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) Build-down method

(A) In general

The regional value-content of a good may be calculated on the basis of the following build-down method:

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

(B) Definitions

In subparagraph (A):

(i) RVC

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

(ii) AV

The term ''AV'' means the adjusted value of the good.

(iii) VNM

The term ''VNM'' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) Build-up method

(A) In general

The regional value-content of a good may be calculated on the basis of the following build-up method:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

(B) Definitions

In subparagraph (A):

(i) RVC

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

(ii) AV

The term ''AV'' means the adjusted value of the good.

(iii) VOM

The term ''VOM'' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) Special rule for certain automotive goods

(A) In general

For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement

may be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

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

(B) Definitions

In subparagraph (A):

(i) Automotive good

The term ''automotive good'' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC

The term ''RVC'' means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC

The term ''NC'' means the net cost of the automotive good.

(iv) VNM

The term ''VNM'' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

(C) Motor vehicles

(i) Basis of calculation

For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

(I) with respect to all motor vehicles in any 1 of the categories described in clause (ii); or

(II) with respect to all motor vehicles in any such category that are exported to the territory of one or more of the CAFTA–DR countries.

(ii) Categories

A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated;

(II) is the same class of motor vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated; or

(III) is the same model line of motor vehicles produced in the territory of a CAFTA–DR country as the good described in clause (i) for which regional value-content is being calculated.

(D) Other automotive goods

For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of one or more of the CAFTA–DR countries.

(E) Calculating net cost

The importer, exporter, or producer shall, consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, determine the net cost of an automotive good under subparagraph (B) by—

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

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then 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 automotive good; or

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

(d) Value of materials

(1) In general

For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of 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, as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

(C) in the case of a material that is self-produced, 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.

(2) Further adjustments to the value of materials

(A) Originating material

The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA–DR countries to the location of the producer.

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

(iii) 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.

(B) Nonoriginating material

The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA–DR countries to the location of the producer.

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

(iii) 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.

(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of one or more of the CAFTA–DR countries.

(e) Accumulation

(1) Originating materials used in production of goods of another country

Originating materials from the territory of one or more of the CAFTA–DR countries that are used in the production of a good in the territory of another CAFTA–DR country shall be considered to originate in the territory of that other country.

(2) Multiple procedures

A good that is produced in the territory of one or more of the CAFTA–DR countries by 1 or more producers is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(f) De minimis amounts of nonoriginating materials

(1) In general

Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

(A) the value of all nonoriginating materials that—

(i) are used in the production of the good, and

(ii) do not undergo the applicable change in tariff classification (set out in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value 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

Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

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

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

(iv) Goods provided for in heading 2105.

(v) Beverages containing milk provided for in subheading 2202.90.

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

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

(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

(E) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90.

(F) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

(G) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(H) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(I) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) Textile or apparel goods

(A) In general

Except as provided in subparagraph (B), a textile or apparel good 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 out in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) the yarns are those described in section 3203(b)(3)(B)(vi)(IV) of this title (as in effect on August 2, 2005).

(B) Certain textile or apparel goods

A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of a CAFTA–DR country.

(C) Yarn, fabric, or fiber

For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term ''component of the good that determines the tariff classification of the good'' means all of the fibers in the good.

(g) Fungible goods and materials

(1) In general

(A) Claim for preferential tariff treatment

A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) Inventory management method

In this subsection, the term ''inventory management method'' means—

(i) averaging;

(ii) ''last-in, first-out'';

(iii) ''first-in, first-out''; or

(iv) any other method—

(I) recognized in the generally accepted accounting principles of the CAFTA–DR country in which the production is performed; or

(II) otherwise accepted by that country.

(2) Election of inventory method

A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

(h) Accessories, spare parts, or tools

(1) In general

Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

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

(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement.

(2) Conditions

Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice for the good; and

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

(3) Regional value-content

If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of 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 the nonoriginating materials

used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, 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 transhipment

A good that has undergone production necessary to qualify as an originating good under subsection (b) 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 territories of the CAFTA–DR countries, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a CAFTA–DR country; or

(2) does not remain under the control of customs authorities in the territory of a country other than a CAFTA–DR country.

(m) Goods classifiable as goods put up in sets

Notwithstanding the rules set forth in Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

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

(2) the total value of the nonoriginating goods in the set does not exceed—

(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

(n) Definitions

In this section:

(1) Adjusted value

The term ''adjusted value'' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of 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, adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

(2) CAFTA–DR country

The term ''CAFTA–DR country'' means—

(A) the United States; and

(B) Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua, for such time as the Agreement is in force between the United States and that country.

(3) Class of motor vehicles

The term ''class of motor vehicles'' means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(4) 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.

(5) Generally accepted accounting principles

The term ''generally accepted accounting principles'' means the recognized consensus or substantial authoritative support in the territory of a CAFTA–DR country with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(6) Goods wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries

The term ''goods wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries'' means—

(A) plants and plant products harvested or gathered in the territory of one or more of the CAFTA–DR countries;

(B) live animals born and raised in the territory of one or more of the CAFTA–DR countries;

(C) goods obtained in the territory of one or more of the CAFTA–DR countries from live animals;

(D) goods obtained from hunting, trapping, fishing or aquaculture conducted in the territory of one or more of the CAFTA–DR countries;

(E) minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken in the territory of one or more of the CAFTA–DR countries;

(F) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil out-

side the territory of one or more of the CAFTA–DR countries by vessels registered or recorded with a CAFTA–DR country and flying the flag of that country;

(G) goods produced on board factory ships from the goods referred to in subparagraph (F), if such factory ships are registered or recorded with that CAFTA–DR country and fly the flag of that country;

(H) goods taken by a CAFTA–DR country or a person of a CAFTA–DR country from the seabed or subsoil outside territorial waters, if a CAFTA–DR country has rights to exploit such seabed or subsoil;

(I) goods taken from outer space, if the goods are obtained by a CAFTA–DR country or a person of a CAFTA–DR country and not processed in the territory of a country other than a CAFTA–DR country;

(J) waste and scrap derived from—

(i) manufacturing or processing operations in the territory of one or more of the CAFTA–DR countries; or

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

(K) recovered goods derived in the territory of one or more of the CAFTA–DR countries from used goods, and used in the territory of a CAFTA–DR country in the production of remanufactured goods; and

(L) goods produced in the territory of one or more of the CAFTA–DR countries exclusively from—

(i) goods referred to in any of subparagraphs (A) through (J), or

(ii) the derivatives of goods referred to in clause (i),

at any stage of production.

(7) Identical goods

The term ''identical goods'' means identical goods as defined in 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;

(8) Indirect material

The term ''indirect material'' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used 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 in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used 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 goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(9) Material

The term ''material'' means a good that is used in the production of another good, including a part or an ingredient.

(10) Material that is self-produced

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

(11) Model line

The term ''model line'' means a group of motor vehicles having the same platform or model name.

(12) Net cost

The term ''net cost'' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

(13) 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 CAFTA–DR country in which the producer is located.

(14) Nonoriginating good or nonoriginating material

The terms ''nonoriginating good'' and ''nonoriginating material'' mean a good or material, as the case may be, that does not qualify as originating under this section.

(15) Packing materials and containers for shipment

The term ''packing materials and containers for shipment'' means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which a good is packaged for retail sale.

(16) Preferential tariff treatment

The term ''preferential tariff treatment'' means the customs duty rate, and the treatment under article 3.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(17) Producer

The term ''producer'' means a person who engages in the production of a good in the territory of a CAFTA–DR country.

(18) Production

The term ''production'' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(19) Reasonably allocate

The term ''reasonably allocate'' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(20) Recovered goods

The term ''recovered goods'' means materials in the form of individual parts that are the result of—

(A) the disassembly of used goods 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.

(21) Remanufactured good

The term ''remanufactured good'' means a good that is classified under chapter 84, 85, or 87, or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516, and that—

(A) is entirely or partially comprised of recovered goods; and

(B) has a similar life expectancy and enjoys a factory warranty similar to such a new good.

(22) Total cost

The term ''total cost'' means all product costs, period costs, and other costs for a good incurred in the territory of one or more of the CAFTA–DR countries.

(23) Used

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

(*o*) Presidential proclamation authority

(1) In general

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

(A) the provisions set out in Annex 4.1 of the Agreement; and

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

(2) Fabrics and yarns not available in commercial quantities in the United States

The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25.4(e) of the Agreement.

(3) Modifications

(A) In general

Subject to the consultation and layover provisions of section 4014 of this title, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(B) Additional proclamations

Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 4014 of this title, the President may proclaim before the end of the 1-year period beginning on August 2, 2005, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(4) Fabrics, yarns, or fibers not available in commercial quantities in the CAFTA–DR countries

(A) In general

Notwithstanding paragraph 3(A), the list of fabrics, yarns, and fibers set out in Annex 3.25 of the Agreement may be modified as provided for in this paragraph.

(B) Definitions

In this paragraph:

(i) The term ''interested entity'' means the government of a CAFTA–DR country other than the United States, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

(ii) All references to ''day'' and ''days'' exclude Saturdays, Sundays, and legal holidays.

(C) Requests to add fabrics, yarns, or fibers

(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity.

(ii) After receiving a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the CAFTA–DR countries; or

(II) any interested entity objects to the request.

(iii) The President may, within the time periods specified in clause (iv), proclaim that a fabric, yarn, or fiber that is the subject of a request submitted under clause (i) is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President determines under clause (ii) that—

(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries; or

(II) no interested entity has objected to the request.

(iv) The time periods within which the President may issue a proclamation under clause (iii) are—

(I) not later than 30 days after the date on which the request is submitted under clause (i); or

(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

(v) Notwithstanding section 4013(a)(2) of this title, a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

(vi) Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in

commercial quantities in a timely manner in the CAFTA–DR countries.

(D) Deemed approval of request

If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3.25 of the Agreement beginning—

(i) 45 days after the date on which the request was submitted; or

(ii) 60 days after the date on which the request was submitted, if the President made a determination under subparagraph (C)(iv)(II).

(E) Requests to restrict or remove fabrics, yarns, or fibers

(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, any fabric, yarn, or fiber—

(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D); or

(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

(ii) An interested entity may submit a request under clause (i) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.

(iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in the CAFTA–DR countries.

(iv) A proclamation declared under clause (iii) shall take effect no earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

(F) Procedures

The President shall establish procedures—

(i) governing the submission of a request under subparagraphs (C) and (E); and

(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C)(ii) or (vi) or (E)(iii).

(Pub. L. 109–53, title II, § 203, Aug. 2, 2005, 119 Stat. 469; Pub. L. 109–135, title IV, § 421, Dec. 21, 2005, 119 Stat. 2642.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This subchapter, referred to in subsec. (*o*)(1)(B), was in the original ''this title'' meaning title II of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 462, which enacted this subchapter and amended sections 58c, 1508, 1514, 1520, and 1592 of this title. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2005—Subsec. (c)(2)(A). Pub. L. 109–135, § 421(1), substituted

$$\text{''RVC} = \frac{\text{AV–VNM}}{\text{AV}} \times 100\text{''}$$

for

$$\text{''RVC} = \frac{\text{AV}}{\text{AV–VNM}} \times 100\text{''}.$$

Subsec. (c)(3)(A). Pub. L. 109–135, § 421(2), substituted

$$\text{''RVC} = \frac{\text{VOM}}{\text{AV}} \times 100\text{''}$$

for

$$\text{''RVC} = \frac{\text{AV}}{\text{VOM}} \times 100\text{''}.$$

Subsec. (c)(4)(A). Pub. L. 109–135, § 421(3), substituted

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

for

$$\text{''RVC} = \frac{\text{NC}}{\text{NC–VNM}} \times 100\text{''}.$$

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

DELEGATION OF FUNCTIONS

Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73556, provided in par. (4) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under subsec. (*o*) of this section to implement Appendix 4.1–B of the Dominican Republic-Central America-United States Free Trade Agreement by determining whether and, if so, by what amount to increase, in accordance with paragraph 3 or footnote 2 of that Appendix, the quantitative limits in the provisions of the Harmonized Tariff Schedule set out in section D of the Annex to this proclamation (not set out in the Code).

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10828, provided in par. (4) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under subsec. (*o*) of this section to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the United States and those Dominican Republic-Central America-United States Free Trade Agreement countries for which the Agreement has entered into force, and to add any such fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months

after adding the fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted quantity; to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, certain fabrics, yarns, or fibers; and to establish procedures governing the submission of a request for any such determination and to ensure appropriate public participation in any such determination.

§ 4034. Retroactive application for certain liquidations and reliquidations of textile or apparel goods

(a) In general

Notwithstanding section 1514 of this title or any other provision of law, and subject to subsection (c), an entry—

(1) of a textile or apparel good—

(A) of a CAFTA–DR country that the United States Trade Representative has designated as an eligible country under subsection (b), and

(B) that would have qualified as an originating good under section 4033 of this title if the good had been entered after the date of entry into force of the Agreement for that country,

(2) that was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country or any other CAFTA–DR country, and

(3) for which customs duties in excess of the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement were paid,

shall be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and the Secretary of the Treasury shall refund any excess customs duties paid with respect to such entry.

(b) Eligible country

The United States Trade Representative shall determine, in accordance with article 3.20 of the Agreement, which CAFTA–DR countries are eligible countries for purposes of this section, and shall publish a list of all such countries in the Federal Register.

(c) Requests

Liquidation or reliquidation may be made under subsection (a) with respect to an entry of a textile or apparel good only if a request therefor is filed with the Bureau of Customs and Border Protection, within such period as the Bureau of Customs and Border Protection shall establish by regulation in consultation with the Secretary of the Treasury, that contains sufficient information to enable the Bureau of Customs and Border Protection—

(1)(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located; and

(2) to determine that the good satisfies the conditions set out in subsection (a).

(d) Definition

As used in this section, the term ''entry'' includes a withdrawal from warehouse for consumption.

(Pub. L. 109–53, title II, § 205, Aug. 2, 2005, 119 Stat. 483; Pub. L. 109–280, title XIV, § 1634(d), Aug. 17, 2006, 120 Stat. 1168.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–280 inserted ''or any other CAFTA–DR country'' after ''that country''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109–280, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4035. Enforcement relating to trade in textile or apparel goods

(a) Action during verification

(1) In general

If the Secretary of the Treasury requests the government of a CAFTA–DR country to conduct a verification pursuant to article 3.24 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) Determination

A determination under this paragraph is a determination—

(A) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 4033 of this title, or

(ii) is a good of a CAFTA–DR country,

is accurate.

(b) Appropriate action described

Appropriate action under subsection (a)(1) includes—

(1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verifica-

tion under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support that claim;

(2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine the country of origin of any such good; and

(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) Action on completion of a verification

On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) Appropriate action described

Appropriate action under subsection (c) includes—

(1) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(e) Publication of name of person

The Secretary may publish the name of any person that the Secretary has determined—

(1) is engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

(Pub. L. 109–53, title II, § 209, Aug. 2, 2005, 119 Stat. 486.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PROC. NO. 7987. TO IMPLEMENT THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10829, provided in par. (5) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under this section to suspend or deny preferential tariff treatment to textile or apparel goods; to detain textile or apparel goods; and to deny entry to textile or apparel goods.

§ 4036. Regulations

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 4033 of this title;

(2) the amendment made by section 204;[1] and

(3) any proclamation issued under section 4033(*o*) of this title.

(Pub. L. 109–53, title II, § 210, Aug. 2, 2005, 119 Stat. 488.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

Section 204, referred to in par. (2), is section 204 of Pub. L. 109–53, which amended section 58c of this title.

[1] See References in Text note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

SUBCHAPTER III—RELIEF FROM IMPORTS

§ 4051. Definitions

In this subchapter:

(1) CAFTA–DR article

The term ''CAFTA–DR article'' means an article that qualifies as an originating good under section 4033(b) of this title.

(2) CAFTA–DR textile or apparel article

The term ''CAFTA–DR textile or apparel article'' means a textile or apparel good (as defined in section 4002(5) of this title) that is a CAFTA–DR article.

(3) De minimis supplying country

(A) Subject to subparagraph (B), the term ''de minimis supplying country'' means a CAFTA–DR country whose share of imports of the relevant CAFTA–DR article into the United States does not exceed 3 percent of the aggregate volume of imports of the relevant CAFTA–DR article in the most recent 12-month period for which data are available that precedes the filing of the petition under section 4061(a) of this title.

(B) A CAFTA–DR country shall not be considered to be a de minimis supplying country if the aggregate share of imports of the relevant CAFTA–DR article into the United States of all CAFTA–DR countries that satisfy the conditions of subparagraph (A) exceeds 9 percent of the aggregate volume of imports of the relevant CAFTA–DR article during the applicable 12-month period.

(4) Relevant CAFTA–DR article

The term ''relevant CAFTA–DR article'' means the CAFTA–DR article with respect to which a petition has been filed under section 4061(a) of this title.

(Pub. L. 109–53, title III, § 301, Aug. 2, 2005, 119 Stat. 488.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'' meaning title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted this subchapter and amended section 2252 of this title. For complete classification of title III to the Code, see Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PART A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

§ 4061. Commencing of action for relief

(a) Filing of petition

A petition requesting action under this part for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) Investigation and determination

Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a CAFTA–DR article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the CAFTA–DR article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) Applicable provisions

The following provisions of section 2252 of this title apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (i).

(d) Articles exempt from investigation

No investigation may be initiated under this section with respect to any CAFTA–DR article if, after the date that the Agreement enters into force, import relief has been provided with respect to that CAFTA–DR article under this part.

(Pub. L. 109–53, title III, § 311, Aug. 2, 2005, 119 Stat. 488.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (d), was in the original ''this subtitle'', meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted this part and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in

force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4062. Commission action on petition

(a) Determination

Not later than 120 days after the date on which an investigation is initiated under section 4061(b) of this title with respect to a petition, the Commission shall make the determination required under that section. At that time, the Commission shall also determine whether any CAFTA–DR country is a de minimis supplying country.

(b) Applicable provisions

For purposes of this part, the provisions of paragraphs (1), (2), and (3) of section 1330(d) of this title shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 2252 of this title.

(c) Additional finding and recommendation if determination affirmative

If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 1330(d) of this title, the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 4063(c) of this title. Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) Report to President

Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) Public notice

Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(Pub. L. 109–53, title III, § 312, Aug. 2, 2005, 119 Stat. 489.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original "this subtitle", meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted this part and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4063. Provision of relief

(a) In general

Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 4062(a) of this title is affirmative, or which contains a determination under section 4062(a) of this title that the President considers to be affirmative under paragraph (1) of section 1330(d) of this title, the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) Exception

The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) Nature of relief

(1) In general

The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) Progressive liberalization

If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.3 of the Agreement) of such relief at regular intervals during the period of its application.

(d) Period of relief

(1) In general

Subject to paragraph (2), any import relief that the President is authorized to provide under this section may not, in the aggregate, be in effect for more than 4 years.

(2) Extension

(A) In general

If the initial period for any import relief provided under this section is less than 4 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 1330(d) of this title, may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) Action by Commission

(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(e) Rate after termination of import relief

When import relief under this section is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 3.3 of the Agreement would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the applicable rate of duty for that article set out in the Schedule of the United States to Annex 3.3 of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 3.3 of the Agreement for the elimination of the tariff.

(f) Articles exempt from relief

No import relief may be provided under this section on—

(1) any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

(2) imports of a CAFTA–DR article of a CAFTA–DR country that is a de minimis supplying country with respect to that article.

(Pub. L. 109–53, title III, § 313, Aug. 2, 2005, 119 Stat. 490.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (f)(1), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4064. Termination of relief authority

(a) General rule

Subject to subsection (b), no import relief may be provided under this part after the date that is 10 years after the date on which the Agreement enters into force.

(b) Exception

If an article for which relief is provided under this part is an article for which the period for

tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is greater than 10 years, no relief under this part may be provided for that article after the date on which that period ends.

(Pub. L. 109–53, title III, § 314, Aug. 2, 2005, 119 Stat. 492.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this subtitle'', meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted this part and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4065. Compensation authority

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 4063 of this title shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

(Pub. L. 109–53, title III, § 315, Aug. 2, 2005, 119 Stat. 492.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in text, is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PART B—TEXTILE AND APPAREL SAFEGUARD MEASURES

§ 4081. Commencement of action for relief

(a) In general

A request under this part for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) Publication of request

If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

(Pub. L. 109–53, title III, § 321, Aug. 2, 2005, 119 Stat. 492.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PROC. NO. 7987. TO IMPLEMENT THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10829, provided in par. (6) that the Committee for the Implementation of Textile Agreements is authorized to exercise the President's authority under sections 4081 to 4088 of this title to review requests and to determine whether to commence consideration of such requests; to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment; and to determine whether imports of a textile or apparel article of an Agreement country are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

§ 4082. Determination and provision of relief

(a) Determination

(1) In general

If a positive determination is made under section 4081(b) of this title, the President shall determine whether, as a result of the elimination of a duty under the Agreement, a CAFTA–DR textile or apparel article of a specified CAFTA–DR country is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) Serious damage

In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(3) Deadline for determination

The President shall make the determination under paragraph (1) no later than 30 days after the completion of any consultations held pursuant to article 3.23.4 of the Agreement.

(b) Provision of relief

(1) In general

If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) Nature of relief

The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(Pub. L. 109–53, title III, § 322, Aug. 2, 2005, 119 Stat. 493.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4083. Period of relief

(a) In general

Subject to subsection (b), any import relief that the President provides under subsection (b) of section 4082 of this title may not, in the aggregate, be in effect for more than 3 years.

(b) Extension

If the initial period for any import relief provided under section 4082 of this title is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

(Pub. L. 109–53, title III, § 323, Aug. 2, 2005, 119 Stat. 493.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4084. Articles exempt from relief

The President may not provide import relief under this part with respect to any article if—

(1) import relief previously has been provided under this part with respect to that article; or

(2) the article is subject to import relief under—

(A) part A; or

(B) chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

(Pub. L. 109–53, title III, § 324, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

Part A, referred to in par. (2)(A), was in the original ''subtitle A'', meaning subtitle A (§§ 311–316) of title III of Pub. L. 109–53, Aug. 2, 2005, 119 Stat. 488, which enacted part A of this subchapter and amended section 2252 of this title. For complete classification of subtitle A to the Code, see Tables.

The Trade Act of 1974, referred to in par. (2)(B), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4085. Rate after termination of import relief

When import relief under this part is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

(Pub. L. 109–53, title III, § 325, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4086. Termination of relief authority

No import relief may be provided under this part with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

(Pub. L. 109–53, title III, § 326, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4087. Compensation authority

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this part shall be treated as action taken under chapter 1 of title II of that Act [19 U.S.C. 2251 et seq.].

(Pub. L. 109–53, title III, § 327, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in text, is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

§ 4088. Confidential business information

The President may not release information received in connection with a review under this part which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, it shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

(Pub. L. 109–53, title III, § 328, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

PART C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

§ 4101. Findings and action on goods of CAFTA–DR countries

(a) Effect of imports

If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 1330(d) of this title), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article of each CAFTA–DR country that qualify as originating goods under section 4033(b) of this title are a substantial cause of serious injury or threat thereof.

(b) Presidential determination regarding imports of CAFTA–DR countries

In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President may exclude from the action goods of a CAFTA–DR country with respect to which the Commission has made a negative finding under subsection (a).

(Pub. L. 109–53, title III, § 331, Aug. 2, 2005, 119 Stat. 494.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

REFERENCES IN TEXT

The Trade Act of 1974, referred to in text, is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

SUBCHAPTER IV—MISCELLANEOUS

§ 4111. Periodic reports and meetings on labor obligations and labor capacity-building provisions

(a) Reports to Congress

(1) In general

Not later than the end of the 2-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter during the succeeding 14-year period, the President shall report to the Congress on the progress made by the CAFTA–DR countries in—

(A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and

(B) implementing the White Paper.

(2) White Paper

In this section, the term ''White Paper'' means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled ''The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity''.

(3) Contents of reports

Each report under paragraph (1) shall include the following:

(A) A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA–DR country.

(B) Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper.

(C) A description of the work done by the CAFTA–DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA–DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

(D) A summary of public comments received on—

(i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;

(ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and

(iii) the efforts made by the CAFTA–DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA–DR countries in affording to workers internationally-recognized worker rights through improved capacity.

(4) Solicitation of public comments

The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

(b) Periodic meetings of Secretary of Labor with labor ministers of CAFTA–DR countries

(1) Periodic meetings

The Secretary of Labor should take the necessary steps to meet periodically with the labor ministers of the CAFTA–DR countries to discuss—

(A) the operation of the labor provisions of the Agreement;

(B) progress on the commitments made by the CAFTA–DR countries to implement the recommendations contained in the White Paper;

(C) the work of the International Labor Organization in the CAFTA–DR countries, and other cooperative efforts, to afford to workers internationally-recognized worker rights; and

(D) such other matters as the Secretary of Labor and the labor ministers consider appropriate.

(2) Inclusion in biennial reports

The President shall include in each report under subsection (a), as the President deems appropriate, summaries of the meetings held pursuant to paragraph (1).

(Pub. L. 109–53, title IV, § 403, Aug. 2, 2005, 119 Stat. 496.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in

force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as a note under section 4001 of this title.

DELEGATION OF FUNCTIONS

Proc. No. 8272, June 30, 2008, 73 F.R. 38300, provided in pars. (17) and (18) that the reporting function under subsecs. (a) and (b)(2) of this section and the solicitation of public comments under subsec. (a)(4) of this section were delegated to the Secretary of Labor, in consultation with the United States Trade Representative.

§ 4112. Earned import allowance program

(a) Preferential treatment

(1) In general

Eligible apparel articles wholly assembled in an eligible country and imported directly from an eligible country shall enter the United States free of duty, without regard to the source of the fabric or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of fabric in such apparel articles, in accordance with the program established under subsection (b).

(2) Determination of quantity of SME

For purposes of determining the quantity of square meter equivalents under paragraph (1), the conversion factors listed in ''Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008'', or its successor publications, of the United States Department of Commerce, shall apply.

(b) Earned import allowance program

(1) Establishment

The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production of eligible apparel articles in an eligible country for purposes of subsection (a), based on the elements described in paragraph (2).

(2) Elements

The elements referred to in paragraph (1) are the following:

(A) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying fabric that the producer or entity controlling production can demonstrate that it has purchased for the manufacture in an eligible country of articles like or similar to any article eligible for preferential treatment under subsection (a). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits may be deposited.

(B) Such producer or entity controlling production may redeem credits issued under subparagraph (A) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

(C) Any textile mill or other entity located in the United States that exports qualifying fabric to an eligible country may submit, upon such export or upon request, the Shipper's Export Declaration, or successor documentation, to the Secretary of Commerce—

(i) verifying that the qualifying fabric was exported to a producer or entity controlling production in an eligible country; and

(ii) identifying such producer or entity controlling production, and the quantity and description of qualifying fabric exported to such producer or entity controlling production.

(D) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying fabric.

(E) The Secretary of Commerce may make available to each person or entity identified in the documentation submitted under subparagraph (C) or (D) information contained in such documentation that relates to the purchase of qualifying fabric involving such person or entity.

(F) The program shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subsection (a)(1).

(G) The Secretary of Commerce may reconcile discrepancies in the information provided under subparagraph (C) or (D) and verify the accuracy of such information.

(H) The Secretary of Commerce shall establish procedures to carry out the program under this section by September 30, 2008, and may establish additional requirements to carry out the program.

(c) Definitions

For purposes of this section—

(1) the term ''appropriate congressional committees'' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(2) the term ''eligible apparel articles'' means the following articles classified in chapter 62 of the HTS (and meeting the requirements of the rules relating to chapter 62 of the HTS contained in general note 29(n) of the HTS) of cotton (but not of denim): trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts, and pants;

(3) the term ''eligible country'' means the Dominican Republic; and

(4) the term ''qualifying fabric'' means woven fabric of cotton wholly formed in the United States from yarns wholly formed in the United States and certified by the producer or entity controlling production as being suitable for use in the manufacture of apparel items such as trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts or pants, all the foregoing of cotton, except that—

(A) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying

fabric because the fabric contains nylon filament yarn with respect to which section 2703(b)(2)(A)(vii)(IV) of this title applies;

(B) fabric that would otherwise be ineligible as qualifying fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric, except that any elastomeric yarn contained in an eligible apparel article must be wholly formed in the United States; and

(C) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains yarns or fibers that have been designated as not commercially available pursuant to—

(i) article 3.25(4) or Annex 3.25 of the Agreement;

(ii) Annex 401 of the North American Free Trade Agreement;

(iii) section 3721(b)(5) of this title;

(iv) section 3203(b)(3)(B)(i)(III) or (ii) of this title;

(v) section 2703(b)(2)(A)(v) or 2703a(b)(5)(A) of this title; or

(vi) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

(d) Review and report

(1) Review

The United States International Trade Commission shall carry out a review of the program under this section annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(2) Report

The United States International Trade Commission shall submit to the appropriate congressional committees annually a report on the results of the review carried out under paragraph (1).

(e) Effective date and applicability

(1) Effective date

The program under this section shall be in effect for the 10-year period beginning on the date on which the President certifies to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) have taken effect.

(2) Applicability

The program under this section shall apply with respect to qualifying fabric exported to an eligible country on or after August 1, 2007.

(Pub. L. 109–53, title IV, § 404, as added Pub. L. 110–436, § 2(a), Oct. 16, 2008, 122 Stat. 4977.)

TERMINATION OF SECTION

For termination of section by section 107(d) of Pub. L. 109–53, see Termination Date note below.

REFERENCES IN TEXT

For Nov. 25, 2008, as the date on which the President certified to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) had taken effect, referred to in subsec. (e)(1), see Proc. No. 8323, Nov. 25, 2008, 73 F.R. 72677. Presidential Proclamation 8213 is Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73555, which is not set out in the Code.

TERMINATION DATE

Section to cease to have effect on the date the Dominican Republic-Central America-United States Free Trade Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as an Effective and Termination Dates note under section 4001 of this title.