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AGOA EXTENSION AND ENHANCEMENT ACT OF 2015

MAY 1, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1891]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1891) to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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I. SUMMARY AND BACKGROUND

A. Purpose and Summary

African Growth and Opportunity Act

Title I reaffirms Congress's commitment to sub-Saharan Africa by ensuring a long-term extension of the African Growth and Opportunity Act, which is the cornerstone of the trade and investment relationship between the United States and sub-Saharan Africa.

First enacted in 2000, AGOA provides preferential duty treatment to sub-Saharan African countries that continue to make progress on economic and political reform; market incentives and private sector growth; the eradication of poverty; and the importance of women to economic growth and development. Currently 39 countries receive benefits under AGOA.

The bill reaffirms Congress's commitment to sub-Saharan Africa through findings and statements of policy on the importance of AGOA and expanding trade and investment ties between the United States and sub-Saharan Africa. The bill takes note of AGOA's successes in promoting trade and investment ties between the United States and sub-Saharan Africa, as well as its success in promoting economic growth, development, poverty reduction, democracy, the rule of law, and stability in sub-Saharan Africa. The bill also finds that the elimination of barriers to trade will improve utilization of AGOA and further strengthen trade and investment ties.

Benefits under AGOA are set to expire on September 30, 2015. The bill provides a long-term extension of AGOA for 10 years, including a 10-year extension of the third-country fabric provisions.

The bill promotes greater regional integration by expanding the rule of origin to allow for combining inputs from all AGOA beneficiaries to count towards meeting the rule of origin for AGOA-eligible products. The bill also simplifies customs procedures to make it easier to complete paperwork on imports from AGOA beneficiaries.

The bill includes statements of policy encouraging the adoption of the WTO Trade Facilitation Agreement. The bill also addresses unfair practices by the European Union that condition access to the European market on signing trade agreements.

Under existing law, the President must annually evaluate whether AGOA beneficiaries are making continual progress in meeting the eligibility criteria in the statute. These criteria include, for example, whether countries in sub-Saharan Africa have established, or are making continual progress toward meeting the criteria outlined in the original AGOA legislation. While this bill does not change the eligibility criteria, it does include several key improvements to the annual review process. For example, the bill provides

flexibility to allow the Administration to withdraw, suspend, or limit benefits under AGOA if it determines that such action would be more effective than termination. In addition, the bill ensures greater predictability and certainty by requiring the Administration to notify Congress and any affected country at least 60 days before removing a country from the program or withdrawing, suspending, or limiting any benefits. The bill also reinstates an exhaustive biennial report to Congress on AGOA countries and utilization of the program, which will further strengthen Congressional oversight of the program.

Furthermore, the bill improves transparency and participation in the annual AGOA review process by making it more public and ensuring that the Administration establishes mechanisms for public input. One such mechanism is the creation of a new petition process that allows any party, at any time, to petition USTR about whether a country is meeting the AGOA eligibility criteria. Another mechanism allows the President to conduct out-of-cycle reviews of eligible countries and a sense of Congress that the President should initiate a review of South Africa or any other beneficiary country that is not in compliance with Section 104(a) of AGOA within 30 days of enactment.

Recognizing that those countries with strategies for taking advantage of the benefits of AGOA tend to have the most success under the program, the bill encourages AGOA beneficiaries to develop biennial utilization strategies and commits the United States to working with AGOA beneficiaries to develop and implement such strategies.

The bill reaffirms the United States' commitment to deepen and expand trade and investment relationships with sub-Saharan Africa, including through the negotiation of free trade agreements, by requiring the Administration to develop a long-term strategy for negotiating trade agreements with sub-Saharan Africa and setting clear statements of U.S. policy.

Title II would extend the Generalized System of Preferences (GSP) through December 31, 2017, and provide retroactive benefits to July 31, 2013 for products that would be eligible as of the effective date. The program expired on July 31, 2013. It would also make certain cotton articles eligible for Least-Developed Beneficiary Developing Countries (LDBDCs), implementing U.S. WTO commitments.

Title III would extend benefits now available to Haiti under the Caribbean Basin Economic Recovery Act (CBERA), as amended, through 2025.

Title IV would offset revenue for budgetary purposes.

B. Background and Need for Legislation

African Growth and Opportunity Act

AGOA has been the cornerstone of United States economic engagement with sub-Saharan Africa since it was enacted in 2000. Congress has legislated five times since AGOA's original enactment to extend and expand the benefits under AGOA.

Economic and political conditions have improved dramatically since AGOA was first enacted. The AGOA Ambassadors Working Group estimates that AGOA has generated about 350,000 direct

jobs and 1 million indirect jobs in sub-Saharan Africa and about 100,000 jobs in the United States.

Approximately 70 percent of imports from AGOA-eligible countries entered under the AGOA program in 2013 (another 20 percent enter under GSP), though the level of utilization varies from country to country. Since adoption of AGOA in 2000, U.S. imports under the program grew more than three-fold, rising from $7.6 billion in 2001 to $24.8 billion in 2013. Petroleum products continue to account for the largest portion of AGOA imports, with an 82 percent share of overall AGOA imports in 2013. Apparel products account for only 1–2 percent of total products imported under the AGOA program but support tens of thousands of jobs in Africa.

Overall, AGOA has had a positive impact on foreign direct investment flows to sub-Saharan Africa. Since enactment of AGOA, U.S. investment has grown at an annual rate of 14 percent, and the U.S. investment stock has increased by about six times. Despite this strong growth, U.S. direct investment in sub-Saharan Africa accounts for only 1 percent of total U.S. direct investment outflows.

Similarly, political conditions have strengthened in many African countries. According to its report, *AGOA: Eligibility Process and Economic Development in Sub-Saharan Africa* [GAO–15–300], the General Accountability Office concluded that, although isolating impacts is difficult, AGOA-eligible countries had higher average income-per person than ineligible countries and higher governance scores than ineligible countries, including on rule of law and political stability criteria.

Even as trade and investment have grown, significant economic and political challenges remain in sub-Saharan Africa. Major barriers remain to U.S.-African trade and investment as well as intra-African trade, including high tariffs, forced localization requirements, legal restrictions on investment, and customs barriers, among others. Substantial supply-side constraints, such as poor infrastructure, lack of regional integration, and other obstacles, also contribute to depress trade and investment flows.

Committee Oversight: As part of its oversight function, the Committee has conducted a thorough process of reviewing AGOA legislation and consulting with interested stakeholders about the possibility of extending and renewing AGOA. This process includes congressional hearings, participation in AGOA Forum meetings by Committee Members and staff, informal consultations with interested stakeholders including the African diplomatic corps and senior African officials, as well as studies from the International Trade Commission and the General Accountability Office. All of these efforts have informed the Committee's development of this legislation and confirmed the need to extend AGOA for another ten years.

To supplement the research conducted by the International Trade Commission, in December 2013 a group of bipartisan leaders from the House Ways and Means Committee, Senate Finance Committee, House Foreign Affairs Committee, and Senate Foreign Relations Committee requested the General Accountability Office (GAO) to conduct a study to examine the contribution of AGOA to economic growth and political reform, barriers to AGOA utilization, as well as potential ways to strengthen the program. To date, GAO has produced four reports.

The first report, “African Growth and Opportunity Act: Observations on Competitiveness and Diversification of U.S. Imports from Beneficiary Countries” [GAO–14–722R], examined the competitiveness and diversification of U.S. imports under AGOA from 2001 to 2013. GAO found that U.S. imports from AGOA countries have increased significantly since the program was implemented in 2001 but remain a small share of total U.S. imports. GAO also noted that while imports of non-oil and mineral products have increased, oil and mineral products still represent the vast majority of U.S. imports from sub-Saharan Africa.

The second report, “African Growth and Opportunity Act: USAID Could Enhance Utilization by Working with More Countries to Develop Export Strategies” [GAO–15–218], examined U.S. government trade capacity building (TCB) assistance in support of AGOA, and the extent to which USAID has made efforts to develop strategic approaches to AGOA utilization with sub-Saharan African countries. The GAO report highlighted several trade-related challenges in sub-Saharan Africa that benefit from TCB assistance. In addition to lacking marketing expertise, market information, and business contacts to effectively export to the U.S. market, many AGOA-eligible countries have poor infrastructure conditions that undermine export competitiveness. GAO recommended encouraging AGOA beneficiary countries to develop utilization strategies and to use those strategies to coordinate TCB efforts.

The third report, “African Growth and Opportunity Act: Eligibility Process and Economic Development in Sub-Saharan Africa” [GAO–15–300], analyzed the annual AGOA eligibility review process, the role of AGOA in supporting reform objectives, and how sub-Saharan African countries have developed since the enactment of AGOA. GAO determined that AGOA-beneficiaries fared better on economic and development metrics than sub-Saharan African countries that did not participate in the program. GAO also found that since AGOA was enacted, income per person has been higher in AGOA-eligible countries, on average, than in ineligible countries. Moreover, AGOA beneficiaries have received more foreign aid per person and higher foreign direct investment than countries that have not participated in the program.

The fourth report, “African Growth and Opportunity Act: Lessons Learned from Other Countries’ Trade Arrangements with Sub-Saharan Africa” [GAO–15–393R], examined the recommendations for AGOA made by the Administration and recommended that Congress enact a long-term extension of AGOA to reduce risks for investors, although it also cautioned that a long-term extension could limit U.S. flexibility in making changes to its trading arrangement with sub-Saharan African countries. Moreover, GAO found that many U.S. domestic commodity groups and producers have raised concerns about expanding AGOA’s product coverage. GAO examined changing the rules of origin and concluded that some rules of origin changes could increase use of AGOA preferences, but there is an increased likelihood that the benefits would accrue to non-AGOA countries. Lastly, GAO examined changing the eligibility criteria and review processes and found that revising eligibility criteria could limit preferences to fewer countries and may negatively impact regional integration.

Generalized System of Preferences

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries (BDCs), subject to certain conditions and limitations. To qualify for GSP benefits, each beneficiary country is subject to mandatory and discretionary eligibility criteria.

The purpose of the GSP program is to promote three broad policy goals: (1) to foster economic development in developing economies through increased trade rather than foreign aid; (2) to promote U.S. trade interests by encouraging beneficiary countries to open their markets and comply more fully with international trading rules; and (3) to help maintain U.S. international competitiveness by lowering costs for U.S. business, as well as lowering prices for American consumers.

The program expired on July 31, 2013. This bill extends the Generalized System of Preferences (GSP) until December 31, 2017 and provides retroactive relief to eligible products that were imported during GSP's lapse.

The bill promotes export growth and economic development for developing countries by continuing to provide duty-free entry for approximately 5,000 agricultural and non-agricultural products from 126 designated beneficiary countries and territories. It also benefits U.S. companies by eliminating an estimated $2 million a day in tariffs on imported goods, supporting an estimated 80,000 jobs in the United States through the movement of GSP products from ports to manufacturers, farmers, and stores. Renewal of GSP fosters innovation and U.S. competitiveness in the global marketplace by lowering costs for intermediate goods, including components, parts, and material imported from designated beneficiary developing countries.

In addition, Title II implements certain commitments taken by the United States relating to cotton. At the World Trade Organization's Eighth Ministerial Conference, the United States agreed to adopt duty-free and quota-free treatment for certain upland cotton for LDBDCs. In 2012, the Administration, after seeking input from the International Trade Commission (ITC) and consulting with Congress, added the appropriate in-quota tariff lines to the GSP program. This bill makes the out-of-quota tariff lines eligible under GSP. The ITC analyzed whether there would be any negative effect from making these products duty-free and quota-free for LDBDCs, and it received no statements of opposition.

Preference Programs for Haiti

Congress first provided expanded benefits on apparel exports from Haiti to the United States in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE I). The program was extended and expanded in 2008 through HOPE II legislation. After the devastating earthquake in 2010, Congress adopted the HELP Act, which included additional flexibility and further extended the program.

In 2006, Haiti's exports to the United States totaled just $496.1 million. In 2014, they totaled $908.2 million. While conditions have improved, economic conditions in Haiti remain challenging and

long-term certainty is important to continuing to attract investment to Haiti.

The bill would extend the HOPE and HELP programs for products from Haiti until September 30, 2025. Such an extension would promote export growth and economic development for Haiti by continuing to provide duty-free entry for a variety of products, including certain apparel products.

C. Legislative History

Background

H.R. 1891, to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes, was introduced on April 17, 2015, and was referred to the Committee on Ways and Means.

Committee hearings

On July 18, 2013, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, the United States Trade Representative. The hearing included discussion about the importance of the preferences programs and the upcoming expiration of GSP.

On April 3, 2014, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, United States Trade Representative. Among the issues covered was the need for renewal of GSP and extension of AGOA and the importance of both programs in furthering the U.S. trade agenda.

On July 29, 2014, the Subcommittee on Trade held a hearing on U.S. trade with Africa and the African Growth and Opportunity Act. The hearing focus included: (1) deepening and expanding trade and investment ties with sub-Saharan Africa; (2) the effectiveness of AGOA and potential revisions to the program to promote improved utilization; (3) barriers to trade in Africa; (4) barriers to regional integration in Africa; and (5) capacity building and efforts to promote regional integration and integration into global supply chains, including through implementation of the WTO Trade Facilitation Agreement.

On August 4–5, 2014, Representatives Young and Rangel participated in the *Africa Growth and Opportunity Act* (AGOA) Forum in Washington, D.C. and met with officials from the United States and AGOA countries.

On February 3, 2015, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, United States Trade Representative. The Committee heard testimony about the importance of AGOA and GSP renewal, including the benefits of the preferences programs for international development and the U.S. economy.

On April 22, 2015, the Committee held a hearing on expanding American trade with accountability and transparency with Treasury Secretary Jack Lew, Agriculture Secretary Tom Vilsack, and Commerce Secretary Penny Prtizker. The Committee heard testimony on the Administration's support for this legislation and timely renewal of the preference programs.

Committee action

The Committee on Ways and Means marked up H.R. 1891, to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes, on April 23, 2015, and ordered the bill favorably reported by voice vote (with a quorum being present).

II. EXPLANATION OF THE BILL

TITLE I: EXTENSION OF AFRICAN GROWTH AND OPPORTUNITY ACT

SECTION 101: SHORT TITLE

Present law

No provision.

Explanation of provision

Section 101 entitles the bill the "AGOA Extension and Enhancement Act of 2015".

Reason for change

The Committee believes that the short title reflects the significant revision and expansion of the AGOA program.

Effective date

The provision is effective upon enactment.

SECTION 102: FINDINGS

Present law

This section supplements and updates findings in previous AGOA legislation, including Section 102 of the African Growth and Opportunity Act.

Explanation of provision

In Section 102, Congress finds that:

(1) Since its enactment, the African Growth and Opportunity Act has been the centerpiece of trade relations between the United States and sub-Saharan Africa and has enhanced trade, investment, job creation, and democratic institutions throughout Africa.

(2) Trade and investment, as facilitated by the African Growth and Opportunity Act, promote economic growth, development, poverty reduction, democracy, the rule of law, and stability in sub-Saharan Africa.

(3) Trade between the United States and sub-Saharan Africa has more than tripled since the enactment of the African Growth and Opportunity Act in 2000, and United States direct investment in sub-Saharan Africa has grown almost six-fold.

(4) It is in the interest of the United States to engage and compete in emerging markets in sub-Saharan African countries, to boost trade and investment between the United States and sub-Saharan African countries, and to renew and strengthen the African Growth and Opportunity Act.

(5) The long-term economic security of the United States is enhanced by strong economic and political ties with the fastest-grow-

ing economies in the world, many of which are in sub-Saharan Africa.

(6) It is a goal of the United States to further integrate sub-Saharan African countries into the global economy, stimulate economic development in Africa, and diversify sources of growth in sub-Saharan Africa.

(7) To that end, implementation of the Agreement on Trade Facilitation of the World Trade Organization would strengthen regional integration efforts in sub-Saharan Africa and contribute to economic growth in the region.

(8) The elimination of barriers to trade and investment in sub-Saharan Africa, including high tariffs, forced localization requirements, restrictions on investment, and customs barriers, will create opportunities for workers, businesses, farmers, and ranchers in the United States and sub-Saharan African countries.

(9) The elimination of such barriers will improve utilization of the African Growth and Opportunity Act and strengthen regional and global integration, accelerate economic growth in sub-Saharan Africa, and enhance the trade relationship between the United States and sub-Saharan Africa.

Reason for change

These provisions supplement and update Congressional findings to reflect the success of AGOA since its enactment and continuing challenges in sub-Saharan Africa. This section reaffirms Congress's commitment to sub-Saharan Africa through findings on the importance of AGOA and expanding trade and investment ties between the United States and sub-Saharan Africa. This section takes note of AGOA's successes in promoting trade and investment ties between the United States and sub-Saharan Africa, as well as its success in promoting economic growth, development, poverty reduction, democracy, the rule of law, and stability in sub-Saharan Africa.

The Committee notes the positive effect that digital trade has had in supporting development among AGOA beneficiaries. The President should continue to encourage sub-Saharan Africa to promote policies that expand Internet access and to eliminate barriers to the digital economy in Africa, including through the AGOA.

This section also finds that the elimination of barriers to trade will improve utilization of AGOA and further strengthen trade and investment ties. The Committee remains concerned by persistent tariff and non-tariff barriers to trade and investment in sub-Saharan Africa that impede trade and regional integration. In addition to persistently high-tariffs, non-tariff barriers impede U.S. exports sub-Saharan Africa as well as regional trade.

Effective date

The provision is effective upon enactment.

SECTION 103: EXTENSION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT

Present law

Under current law, AGOA and the special rule of origin on third-country fabric expires on September 30, 2015.

Explanation of provision

Section 103 extends AGOA and the special rule of origin on third-country fabric from September 30, 2015 to September 30, 2025.

Reason for change

The Committee believes that long-term extension is important to encourage investment and support current investors. Extension of the third-country fabric provision is important to continue to support the development of the textile and apparel industry in Africa and support integration of the textile and apparel industry into global supply chains. At the same time, the Committee is supportive of efforts underway to develop a more integrated African supply chain so that further renewal of third-country fabric provisions will not be necessary.

Effective date

The provision is effective upon enactment.

SECTION 104: PROMOTING GREATER REGIONAL INTEGRATION

Present law

Section 506A(b) of the Trade Act of 1974 provides the rules of origin for AGOA-eligible products.

Explanation of provision

Section 104(a) allows producers to include the direct costs of processing operations performed in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries in achieving the required minimum 35 percent local value content.

Section 104(b) allows a producer to include value-added from any AGOA-beneficiary country or former AGOA beneficiary country in calculating the required minimum 35 percent local value content.

Section 104(c) authorizes the President to amend the Harmonized Tariff Schedule of the United States (HTSUS) to add the special tariff treatment symbol “D” in the “Special” subcolumn of the HTSUS for every product with the special tariff treatment symbol “A” in the “Special” subcolumn to clarify that every article described in section 503(a)(1) of title V of the Trade Act of 1974 that is the growth, product, or manufacture of a beneficiary sub-Saharan African country will be eligible for the preferential tariff treatment described in amended section 506A(b)(2).

Reason for change

These provisions simplify the rules of origin for AGOA and encourage further regional integration.

In order to encourage greater regional integration in Africa, section 104(a) amends section 506A(b)(2) of the Trade Act of 1974, as amended, to allow accumulation of the direct costs of processing operations performed in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries in achieving the required minimum 35 percent local value content. The Committee believes that this will continue to promote greater regional integration in Africa.

Section 104(b) ensures that the general rules of origin governing duty-free treatment under the GSP program would apply to any article described in section 503(a)(1) of title V of the Trade Act of 1974 that is the growth, product or manufacture of a beneficiary sub-Saharan African country. The general rule of origin governing duty-free treatment under the GSP program would continue to apply to imports from beneficiary sub-Saharan African countries of any item, other than textiles or apparel products or textile luggage, that is designated as import sensitive under section 503(b)(1) of title V of the Trade Act of 1974.

Section 104(c) authorizes the President to simplify import paperwork and eliminates confusion by allowing importers of products under AGOA to mark "D" in all instances for any AGOA- or GSP-eligible product.

Effective date

The amendments made by sections 104(a) and (b) apply to eligible products 30 days after enactment. Section 104(c) is effective immediately upon enactment.

SECTION 105: MONITORING AND REVIEW OF ELIGIBILITY

Present law

Section 506A(a) of the Trade Act of 1974 authorizes the President to designate sub-Saharan African countries as eligible for AGOA benefits and requires the President to monitor, review, and report to Congress annually on the progress of each sub-Saharan country in meeting the eligibility criteria set forth in the AGOA statute.

Explanation of provision

Section 105(a) amends section 506A(a)(3) of the Trade Act of 1974 to require the President to provide at least 60 days' notification and explanation to Congress and the sub-Saharan African country in question of his intention to terminate the designation of such country as a beneficiary sub-Saharan African country.

Section 105(b) amends section 506A of the Trade Act of 1974 to allow the President to withdraw, suspend, or limit duty-free treatment for certain articles if he determines that such treatment would be more effective in promoting compliance with eligibility requirements than terminating benefits. The President is required to notify Congress and the country in question at least 60 days in advance of any action, along with the reasons for such action.

Section 105(c) amends section 506A of the Trade Act of 1974 to require the President to annually publish in the Federal Register, as part of the annual monitoring and review of countries, a notice of the annual review and a request for public comments on whether beneficiary countries are meeting the eligibility criteria. It also requires the United States Trade Representative to hold a public hearing within 30 days of the President's publication.

Section 105(c) also requires the President to create a new petition process in which interested parties may file a petition with the United States Trade Representative at any time regarding the compliance of any AGOA beneficiary country.

Section 105(c) authorizes the President to initiate an out-of-cycle review of any beneficiary sub-Saharan African country, at any time, to determine whether it is making continual progress in meeting the eligibility criteria. If a country fails the out-of-cycle review, the President shall terminate or withdraw, suspend, or limit the application of duty-free treatment. The President shall consult with Congress before initiating an investigation and report after a conclusion. In addition, it is the sense of Congress that the President should initiate a review of South Africa or any other beneficiary country that is not in compliance with Section 104(a) of AGOA within 30 days of enactment.

Reason for change

Under current practice, the President is not required to provide advanced notice to Congress of his intent to terminate the designation of a beneficiary country. As a result, the President has often notified Congress fewer than 10 days before benefits are to be terminated. This does not provide adequate certainty and predictability for the program. Section 105(a) brings notification obligations under AGOA in line with the notification obligations under the GSP program.

The purpose of section 105(b) of the bill is to provide the President with greater flexibility in administering the program when a country is found to violate one or more of the eligibility criteria. Under the current statute, the President's only option is to terminate eligibility for the program, effective January 1 of the following year. However, in some cases, termination of all benefits is not necessarily the most effective way to address the underlying problem. For example, if a beneficiary's actions and policies with regards to a specific sector of their economy violate the eligibility criteria, then the most effective action to address the violation may be to limit AGOA benefits with respect to that sector, rather than for all products. Similarly, if there is an event that contravenes the eligibility criteria that may be temporary in nature, then suspension of benefits for a limited period of time may be a more effective way to address the issue than termination of benefits altogether. Finally, if an event occurs that is so egregious that the Administration determines benefits should be removed before January 1 of the following year, this language gives the President the authority to withdraw those benefits within 60 days, with termination to follow on January 1 of the following year. The Committee expects that the Administration will, in appropriate circumstances, make full use of the additional flexibility provided in this section to address situations where beneficiary countries have taken steps which violate eligibility criteria and which may limit or exclude international trade and investment.

While this provision provides additional flexibility, the default for a breach of the criteria remains termination of benefits on January 1 of the following year because AGOA provides benefits above and beyond GSP and includes additional eligibility criteria. As such, before invoking the flexibilities set out in the bill, the President must determine that withdrawing, suspending, or limiting benefits under the bill is more effective in promoting compliance with the criteria than terminating benefits and shall notify Congress of the rationale for this determination.

As the Committee has noted in the findings section, it has heard significant concerns about new and continuing barriers to trade in sub-Saharan Africa. Section 105(c) enhances existing consultation requirements and creates a new petition process that allows for interested parties to have their concerns adequately aired at any time. The Committee intends for this process to improve input into the AGOA-eligibility review process and better inform the Administration of developments. The Administration should take these petitions into account when annually reviewing AGOA eligibility and in informing out-of-cycle reviews.

Under current law the Administration can review a country's eligibility at any time. However, the Committee believes that statutorily establishing a formal out-of-cycle review provides an additional tool to the Administration to regularly review a country's eligibility. The Committee does not intend for out-of-cycle reviews to be common. Instead, a formal out-of-cycle review should be instituted by the Administration only when it has exhausted all other options. Such a review should occur prior to taking steps to terminate a country's eligibility or withdraw, suspend, or limit benefits, should such action be necessary. These reviews should be conducted promptly, and reporting to Congress required by this provision should be detailed. If the Administration determines not to take action as a result of an out-of-cycle review, the Committee expects regular consultations and continued monitoring of developments.

This section also includes a Sense of Congress provision directing the Administration to initiate a review of South Africa, and any other similarly situated country, within 30 days of enactment. The Committee remains very concerned by several steps taken by South Africa, including imposition of sanitary and phytosanitary measures that are not based on science and restrict U.S. exports. For example, poultry and poultry products face either express importation bans or SPS measures tantamount to an importation ban. Similarly, South Africa limits imports of certain cuts and ages of U.S. beef, as well as other U.S. ruminant animals and products. With respect to pork and pork products, South Africa maintains import restrictions on U.S. pork that require unnecessary, and highly onerous, export certificates that are not based on science.

The Committee is also concerned that some AGOA beneficiaries have failed to fully implement their WTO obligations. In particular, the Committee notes that South Africa imposes anti-dumping duties on U.S. poultry using methodologies that appear to be inconsistent with WTO obligations. These duties have been in place for nearly as long as the AGOA program and have effectively shut the market to U.S. exports. Similarly, the Committee is concerned by recent discussions of policies in South Africa that would restrict investment in certain sectors and potentially even nationalize existing investments.

Furthermore, the Committee is concerned by South Africa's deteriorating foreign investment climate, including its termination of bilateral investment treaties and recent legislative proposals to limit foreign ownership in certain sectors.

Effective date

The provision is effective upon enactment.

SECTION 106: BIENNIAL AGOA UTILIZATION STRATEGIES

Present law

No provision.

Explanation of provision

Section 106(a) establishes a Sense of Congress that eligible sub-Saharan African countries should develop biennial AGOA Utilization Strategies to more effectively and strategically utilize benefits available under AGOA and that the United States trade capacity building agencies should work with and provide appropriate resources in developing and implementing these strategies. It also encourages USTR to consider requesting strategies from Regional Economic Communities, as appropriate.

Section 106(b) establishes that AGOA Utilization Strategies should identify strategic needs and priorities to bolster AGOA utilization and sets forth suggested content.

Section 106(c) calls on AGOA eligible countries and USTR to publish public versions of their utilization plans on the Internet.

Reason for change

These provisions implement recommendations from the Government Accountability Office that the United States encourage the development of utilization strategies. At its hearing last year on AGOA, the Committee also received testimony that those countries that have unilaterally adopted AGOA utilization strategies have more effectively grown and diversified exports under AGOA. The Committee believes that these AGOA utilization strategies should inform trade capacity building efforts, including allocation of resources.

Effective date

The provision is effective upon enactment.

SECTION 107: DEEPENING AND EXPANDING TRADE AND INVESTMENT TIES BETWEEN SUB-SAHARAN AFRICA AND THE UNITED STATES

Present law

This provision builds on findings in previous AGOA legislation, including Section 103 of the African Growth and Opportunity Act.

Explanation of provision

This section establishes the policy of the United States to deepen and expand investment ties between sub-Saharan Africa and the United States.

Section 107(a) establishes that the United States should continue to seek all opportunities to deepen and expand ties between sub-Saharan Africa and the United States through accession by sub-Saharan African countries to the World Trade Organization and negotiation of Trade and Investment Framework Agreements, Bilateral Investment Treaties, and Free Trade Agreements with individual countries and regional economic communities.

Section 107(b) states that the United States should continue to seek to agreements with individual countries as well as regional economic communities, as appropriate.

Section 107(c) provides that the United States should continue to promote the full implementation of commitments made under WTO agreements to improve AGOA utilization and promote trade and investment.

Section 107(d) provides that the United States should continue to promote the negotiation of trade agreements that cover substantially all trade between parties, and to object in all forums if other countries negotiate agreements that do not cover substantially all trade.

Reason for change

The Committee believes that deeper trade and investment ties between sub-Saharan Africa and the United States will further mutually-shared development and national security goals. The Committee encourages the Administration to expand our Trade and Investment Framework Agreements (TIFAs) and Bilateral Investment Treaties (BITs), including by concluding BITs with regional groupings. As countries become ready, the United States should transition to FTAs for the most robust trade relationship.

Section 107(c) addresses several important points. First, sub-Saharan African countries that are already members of the World Trade Organization should fully implement existing commitments and be in compliance with their obligations. The Committee believes that full implementation of these commitments is important to encouraging more robust trade and investment relationships.

Second, full implementation of the WTO Trade Facilitation Agreement (TFA), which was agreed to in December 2013 at the 9th WTO Ministerial, will facilitate removing barriers to trade and promoting infrastructure development within sub-Saharan Africa. Analysis by the Peterson Institute for International Economics suggests that implementation of the TFA could add $1 trillion to the global economy. The TFA also provides flexibility to developing countries and least developed countries (LDCs) as well as mechanisms for technical assistance to support implementation. These provisions will be especially significant in sub-Saharan Africa, where lower levels of automation and transparency contribute to higher transaction costs, and a significant percentage of countries are landlocked (and therefore must transit other countries' borders just to reach their export destination).

Already, Mauritius has submitted its ratification instrument to the WTO. The Committee welcomes this important step and encourages all AGOA beneficiaries to promptly take the necessary steps to submit ratification instruments to the WTO prior to the 10th WTO Ministerial in Kenya in December 2015.

Section 107(d) reflects the Committee's strong concerns about the EU's efforts to push African countries from its own unilateral preference program into reciprocal, bilateral trade agreements—what it calls Economic Partnership Agreements (EPAs), which do not cover substantially all trade. Of particular concern, the tariff preferences in the EU-South Africa EPA have now largely entered into force, and U.S. exporters are at a significant disadvantage. These EPAs raise WTO concerns because they are reported not to cover substantially all trade and carve out many economically significant and sensitive sectors. The EU continues to push EPAs with many AGOA members that would further disadvantage U.S. exporters.

The Committee believes that AGOA is—and should remain—a unilateral preference program and does not intend to seek reciprocity through AGOA. However, the Committee notes that the EU's approach disadvantages U.S. companies seeking to do business with Africa and raises serious policy and development concerns.

Effective date

The provision is effective upon enactment.

SECTION 108: REPORTS

Present law

Reports required under AGOA have expired.

Explanation of provision

Section 108(a) requires the President to submit a biennial comprehensive report to Congress on the trade and investment relationship between the United States and sub-Saharan Africa. The first such report must be submitted not later than one year after the date of enactment.

Section 108(b) requires the United States Trade Representative to submit to Congress every five years a report that evaluates each AGOA eligible country's path toward becoming a trade agreement partner, identifies sub-Saharan countries that have expressed an interest in entering into a free trade agreement with the United States, and establishes a plan for negotiating and concluding such agreements. The first such report must be submitted not later than one year after the date of enactment.

Section 108(c) sunsets these reports consistent with the duration of this Act.

Reason for change

Both of these reports were required under the original AGOA legislation, but expired in 2007. The Committee found these reports to be valuable and an important aspect of its oversight. As a result, it is renewing both reports, with some modifications to reflect developments.

The report required in section 108(a) should be comprehensive in its review of each country's performance against the required eligibility criteria. In particular, the Committee expects that the Administration will thoroughly review each aspect of the eligibility criteria and where an AGOA-eligible country is making less than full progress towards meeting the criteria, provide detailed information on the actions the Administration will take to ensure that greater progress is made.

The report required in section 108(b) is meant to supplement and expand upon the section 108(a) report. In this report, the Administration is expected to provide an analysis that allows the Committee to evaluate and understand which AGOA-eligible countries may soon be ready for trade agreement negotiations and where gaps exist between existing U.S. trade agreement practice and the domestic laws of those countries. The Administration should also use this gap-analysis to inform its selection of potential trade agreement negotiating partners. In particular, the Committee notes

that the Administration should carefully evaluate the feasibility of negotiating a trade agreement with each AGOA-eligible country (or regional economic community, if appropriate) and not just those AGOA-eligible countries that the Administration has sought to negotiate with in the past.

Effective date

The provision is effective upon enactment.

SECTION 109: TECHNICAL AMENDMENTS

Present law

No provision.

Explanation of provision

Section 109 deletes section 104(b) of the African Growth and Opportunity Act, as amended.

Reason for change

Section 104(b) of the African Growth and Opportunity Act is duplicative of other provisions.

Effective date

The provision is effective upon enactment.

SECTION 110: DEFINITIONS

Present law

Section 506A of the Trade Act of 1974 and Section 107 of the African Growth and Opportunity Act.

Explanation of provision

Section 110 defines terms used in this bill in the same way as previous legislation.

Reason for change

This section ensures that the terms used in this bill have the same meaning as previous legislation.

Effective date

The provision is effective upon enactment.

TITLE II: EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

SECTION 201: EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES

Present law

Title V of the Trade Act of 1974 contains the legislative authorization for the GSP program. Section 505 of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V shall remain in effect after July 31, 2013.

Explanation of provision

Section 201 amends Section 505 of the Trade Act of 1974 to extend the Generalized System of Preferences program until December 31, 2017, and retroactively applies to goods imported on or after July 31, 2013 that would have been eligible for duty-free treatment under the GSP program as of the date of enactment.

Reasons for change

The Committee believes GSP has been a highly effective program in meeting its goals of fostering development in developing economies through trade, promoting U.S. trade interests by encouraging beneficiary countries to open their markets and comply with international trade rules, and maintaining U.S. competitiveness by lowering costs for U.S. businesses and lowering prices for U.S. consumers. Further, to prevent an unintended gap in duty-free treatment, the Committee provides for a retroactive extension of the program.

Effective date

This provision applies to eligible imports 30 days after enactment.

SECTION 202: AUTHORITY TO DESIGNATE CERTAIN COTTON ARTICLES AS ELIGIBLE ARTICLES ONLY FOR LDBDCS UNDER GSP

Present law

Section 505(b) of the Trade Act of 1974 prohibits the President from designating certain articles as eligible for duty-free treatment.

Explanation of provision

Section 202 amends Section 503(b) of the Trade Act of 1974 to authorize the President to designate certain cotton articles, classifiable under subheadings 5201.00.18, 5201.00.28, 5201.00.38, 5202.99.30, and 5203.00.30 of the Harmonized Tariff Schedules of the United States, as eligible articles for countries designated as least-developed beneficiary developing countries under the GSP program.

Reasons for change

The Committee believes that authorizing the President to designate certain cotton articles as eligible articles for LDBDCs would encourage continued and enhanced economic engagement between LDBDCs and the international marketplace. The Committee, while recognizing the sensitivity of cotton product imports, believes that the extension of eligibility to cotton articles classifiable under subheading 5201.00.18, 5201.00.28, 5201.00.38, 5202.99.30, and 5203.00.30 will promote the objectives of the GSP program and will not disadvantage the integrity or competitiveness of the U.S. domestic cotton industry.

Effective date

This provision is effective upon enactment.

SECTION 203: APPLICATION OF COMPETITIVE NEED LIMITATION AND WAIVER UNDER GENERALIZED SYSTEM OF PREFERENCES WITH RESPECT TO ARTICLES OF BENEFICIARY DEVELOPING COUNTRIES EXPORTED TO THE UNITED STATES DURING CALENDAR YEAR 2014

Present law

Section 503(c)(2) and (d) of the Trade Act of 1974 provides for the administration of competitive need limitations and waivers. Present law requires the Administration to complete this process by July 1 of each year.

Explanation of provision

Section 203 allows the Administration to complete the competitive need limitation and waiver determinations by October 1, 2015 for products entered in 2014.

Reasons for change

This provision allows additional time for the Administration to conduct its annual competitive need limitations and waivers review.

Effective date

This provision is effective immediately upon enactment.

TITLE III: EXTENSION OF PREFERENTIAL DUTY TREATMENT PROGRAM FOR HAITI

SECTION 301: EXTENSION OF PREFERENTIAL DUTY TREATMENT PROGRAM FOR HAITI

Present law

Under the Caribbean Basin Economic Recovery Act, benefits under Section 213A(b)(1)(B)(v)(I) begin to expire on December 20, 2017 and under Section 213A(h) all benefits expire on September 30, 2020.

Explanation of provision

Section 301 amends Section 213A of the Caribbean Basin Economic Recovery Act to extend benefits to Haiti through September 30, 2025.

Reasons for change

The Committee believes the HOPE and HELP programs have played an important role in helping to improve the economic conditions in Haiti and supporting recovery since the devastating earthquake in 2010. Studies suggest that HOPE/HELP support an estimated 30,000 jobs in Haiti that are created by the apparel industry, the core export industry and primary source of employment growth. A long-term extension of HOPE/HELP will further encourage foreign investment and job creation by extending trade preferences to reinvigorate the apparel industry and attract new and expanded foreign direct investment. This extension also reaffirms U.S. foreign policy and national security interests by promoting trade and long-term investments in Haiti.

Effective date

This provision is effective upon enactment.

TITLE IV: OTHER PROVISIONS

SECTION 401: CUSTOMS USER FEES

Present law

Under Section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, the Secretary of the Treasury is authorized to charge and collect fees for the provision of certain customs services. Pursuant to Section 13031(j)(3), the Secretary of the Treasury may not charge fees for the provision of certain customs services after September 30, 2024.

Explanation of the provision

Section 401(a) amends Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to extend the period that the Secretary of the Treasury may charge for certain customs services for imported goods from September 30, 2024 to July 7, 2025.

Section 401(b) extends the ad valorem rate for the Merchandise Processing Fee collected by Customs and Border Protection that offsets the costs incurred in processing and inspecting imports, from June 30, 2021 to June 30, 2025.

Reasons for change

The Committee believes it is appropriate to extend the merchandise processing fees for budgetary offset purposes.

Effective date

This provision is effective upon enactment.

SECTION 402: TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

Present law

In general, corporations are required to make quarterly estimated tax payments of their income tax liability.[1] For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. The amount of any required estimated payment is 25 percent of the required annual payment.[2] The required annual payment is 100 percent of the tax liability for the taxable year or the preceding taxable year. The option to use the preceding taxable year is not available if the preceding taxable year was not a 12-month taxable year or the corporation did not file a return in the preceding taxable year showing a liability for tax. Further, in the case of a corporation with taxable income of at least $1 million in any of the three immediately preceding taxable years, the option to use the preceding taxable year is only available for the first installment of such corporation's taxable year.[3] In addition, in the case of a corporation with assets of at least $1 billion (determined as of

[1] Sec. 6655.
[2] Sec. 6655(d)(1).
[3] Sec. 6655(d)(2) and (g)(2).

the end of the preceding taxable year), payments due in July, August or September of 2017, are increased to 100.25 percent of the payment otherwise due.[4] For each of the periods affected, the next required payment is reduced accordingly (i.e., payments due in October, November, or December of 2017 are reduced to 99.75 percent of the payment otherwise due).

Explanation of the provision

In the case of a corporation with assets of at least $1 billion (determined as of the end of the preceding taxable year), the provision increases the amount of the required installment of estimated tax otherwise due in July, August, or September of 2020 by 5.25 percent of such amount (determined without regard to any increase in such amount not contained in the Internal Revenue Code) (i.e., payments due in July, August or September of 2020, are increased to 105.25 percent of the payment otherwise due). The next required installment is reduced accordingly (i.e., payments due in October, November, or December of 2020 are reduced to 94.75 percent of the payment otherwise due).

Reasons for change

The Committee believes it is appropriate to adjust the quarterly estimated tax payment requirements for corporations with $1 billion or more in assets to ensure that the legislation complies with certain Senate procedural requirements.

Effective date

The proposal is effective on the date of enactment of the Act.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 1891, to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes, on April 23, 2015.

The bill, H.R. 1891, was ordered favorably reported by voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1891, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2015–2025:

[4] African Growth and Opportunity Act, Pub. L. No. 112–163, sec. 4.

FISCAL YEARS

[Millions of dollars]

2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–20	2015–25
...	....	....	3,781	−3,781	....	....	....	....	3,781	....		

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not “major legislation” for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the revenue provision of the bill involves no new or increased budget authority.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 29, 2015.

Hon. Paul Ryan,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1891, a bill to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz for federal spending and Ann Futrell and Susan Willie for federal revenues.

Sincerely,

Keith Hall, *Director.*

Enclosure.

H.R. 1891—A bill to extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes

Summary: H.R. 1891 would extend the reduced tariff rates currently imposed on products imported under the African Growth and Opportunity Act (AGOA), the Generalized System of Preferences

(GSP), and the Haitian Hemispheric Opportunity through Partnership Encouragement Act. The bill also would shift some corporate income tax payments between fiscal years and increase the rate of certain fees collected by Customs and Border Protection (CBP) as well as extend the authority to collect those fees.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 1891 would reduce both direct spending and revenues by about $5.8 billion over the 2015–2025 period—resulting in a reduction in deficits over the 11-year period of $16 million. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. CBO estimates that certain Congressional reports called for under H.R. 1891 would cost $1 million over the 2015–2020 period, assuming availability of appropriated funds.

CBO has determined that the nontax provisions of the bill contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. JCT has determined that the tax provisions of the bill contain no intergovernmental or private-sector mandates.

CBO has determined that the nontax provisions of H.R. 1891 contain private-sector mandates on entities required to pay merchandise processing fees. CBO estimates the aggregate cost of the mandates would exceed the annual threshold established in UMRA for private-sector mandates ($154 million in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 1891 are shown in the following table. The costs of this legislation fall within budget functions 750 (administration of justice) and 370 (advancement of commerce).

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	0	0	0	0	0	0	−162	−873	−916	−962	−2,948	0	−5,861
Estimated Outlays	0	0	0	0	0	0	−162	−873	−916	−962	−2,948	0	−5,861
CHANGES IN REVENUES													
Extension of African Growth and Opportunity Act	*	−121	−130	−238	−284	−298	−312	−329	−345	−365	−387	−1,071	−2,809
Extension of General System of Preferences	−1,051	−627	−665	−173	0	0	0	0	0	0	0	−2,516	−2,516
Extension of Preferential Duty Treatment for Haiti	0	0	0	0	−12	−17	−75	−97	−101	−106	−112	−29	−520
Shift in Payment of Corporate Estimated Tax	0	0	0	0	0	3,781	−3,781	0	0	0	0	3,781	0
Total Changes in Revenues	−1,051	−748	−795	−411	−296	3,466	−4,168	−426	−446	−471	−499	165	−5,845
NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Impact on Deficit	1,051	748	795	411	296	−3,466	4,006	−447	−470	−491	−2,449	−165	−16

Sources: Congressional Budget Office and the Staff of the Joint Committee on Taxation
Notes: This estimate assumes enactment of H.R. 1891 by July 1, 2015; * = between −$500,000 and zero.
For direct spending, negative numbers indicate a decrease in outlays; for revenues, negative numbers indicate a reduction in revenues.
Components may not sum to totals because of rounding.
CBO estimates that implementing H.R. 1891 would cost about $1 million over the 2015–2020 period, assuming availability of appropriated funds, to prepare Congressional reports.

Basis of estimate: For this estimate, CBO assumes that H.R. 1891 will be enacted by July 1, 2015.

Direct spending

Under current law, the authority to charge merchandise processing fees collected by Customs and Border Protection will expire after September 30, 2024. The bill would extend the authority to collect those fees through July 7, 2025. The bill also would raise the rate of the merchandise processing fee from 0.21 percent to 0.3464 percent of the value of goods entering the U.S. for the period beginning July 1, 2021, and ending June 30, 2025. CBO estimates those actions would increase offsetting receipts (certain collections that are treated as reductions in direct spending) by about $5.9 billion over the 2021–2025 period. To project collections of merchandise processing fees, CBO assumes that the fees collected in future years will grow at the same rate seen in recent years—about 5 percent. In 2014 collections from the merchandise processing fee totaled $2.3 billion. By 2024 CBO estimates those collections will total about $2.7 billion under current law. CBO expects that the proposed increase in the fee rate would have a very minor effect on the value of goods entering the U.S.

Revenues

CBO's estimates of the revenue effects of proposals to lower tariff rates charged on imports from certain countries or on certain goods are based on historical data about the value and volume of those goods entering the United States. Using that historical data, CBO develops a baseline of future collections that accounts for expected growth in trade over the next ten years. To estimate tariff collections under the proposed legislation, CBO considers both general growth in trade as well as changes in demand that are likely to result from lower rates. The changes in revenues for each of the programs discussed below reflect the difference between the baseline estimate of collections for each program using effective tariff rates under current law and projected collections under each proposal using the proposed duty rate, net of payroll and income tax offsets. CBO assumes that the lower tariffs under the legislation would result in an increase in overall imports, as well as a diversion of imports from countries that would not be eligible for lower tariffs to those that would.

Extension of African Growth and Opportunity Act. Under AGOA the U.S. provides nonreciprocal tariff reductions to roughly 40 eligible sub-Saharan countries for certain goods that the U.S. imports. The bill would extend the authority for reduced tariffs under AGOA, which are set to expire at the end of September 30, 2015, through September 30, 2025. The bill also would extend the special rule that may apply to certain lesser-developed sub-Saharan countries under AGOA. The special rule also expires on September 30, 2015. Under this rule a lesser-developed country may export duty-free to the United States any apparel good that is assembled within the country, regardless of the origin of the fabric or yarn. In addition, the bill would revise the rules of origin for AGOA beneficiary countries under GSP to expand the value of products that would qualify for duty free treatment.

CBO estimates that extending and amending AGOA would reduce revenues by $2.8 billion over the 2015–2025 period, net of payroll and income tax offsets. That estimate includes the revenue loss after December 31, 2017, from imports that are eligible for duty free treatment under GSP (which the bill extends through December 31, 2017).

Extension of General System of Preferences. Under the GSP the U.S. affords nonreciprocal tariff reductions to approximately 130 developing countries. Generally, duty-free treatment of imported goods from GSP-designated developing countries is extended to products that are predominately produced only in those countries. The bill would renew GSP, which expired on July 31, 2013, and continue its authority through December 31, 2017. Under the bill, importers or exporters that would have otherwise qualified for reduced tariffs under GSP could obtain refunds for tariffs paid after July 30, 2013, that would not have been payable had GSP been in effect. CBO estimates that renewing GSP would reduce revenues by $2.5 billion over the 2015–2025 period, net of payroll and income tax offsets. This estimate includes the cost, through December 31, 2017, of imports that are eligible for duty free treatment under the African Growth Opportunity Act (which expires in September 2015).

Extension of preferential duty treatment for Haiti. Under the Haitian Hemispheric Opportunity through Partnership Encouragement Act, certain textile and apparel goods imported to the U.S. from Haiti are eligible for duty-free treatment if restrictions regarding the source of the yarns and fabrics used in the imported goods are met. Portions of this program will begin to expire in 2016; H.R. 1891 would extend this duty-free status through 2025. CBO estimates that enacting this provision would reduce revenues by $520 million over the 2015–2025 period, net of payroll and income tax offsets.

Shift in payment of corporate estimated tax. H.R. 1891 would shift payments of corporate estimated taxes between fiscal years 2020 and 2021. For corporations with at least $1 billion in assets, the bill would increase the portion of corporate estimated payments due from July through September in 2020. The staff of JCT estimates that those changes would increase revenues by $3.8 billion in 2020 and reduce revenues by the same amount in 2021.

Spending Subject to Appropriation

H.R. 1891 would require the United States Trade Representative to prepare a series of reports on trade activities with sub-Saharan African countries and their interest in entering into free trade agreements with the United States. Based on the cost of similar reports, CBO estimates that the costs to prepare that series would be significantly less than $500,000 annually, and would total about $1 million over the 2015–2020 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1891, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 23, 2015

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
	NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	1,051	748	795	411	296	−3,466	4,006	−447	−470	−491	−2,449	−165	−16
Memorandum:													
Changes in Outlays	0	0	0	0	0	0	−162	−873	−916	−962	−2,948	0	−5,861
Changes in Revenues	−1,051	−748	−795	−411	−296	3,466	−4,168	−426	−446	−471	−499	165	−5,845

Estimated impact on state, local, and tribal governments: CBO has determined that the nontax provisions of the bill contain no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments. JCT has determined that the tax provisions of the bill contain no intergovernmental mandates.

Estimated impact on the private sector: CBO has determined that the nontax provisions of H.R. 1891 would impose private-sector mandates, as defined in UMRA, on entities required to pay merchandise processing fees. The bill would extend those fees through July 7, 2025; the fee rates would increase beginning July 1, 2021, and ending June 30, 2025. Some of the entities that are required to pay merchandise processing fees may also accrue savings related to the preferential tariff treatment accorded to certain products that would be extended under the bill. However, CBO estimates that the aggregate costs of the mandates would exceed the annual threshold established in UMRA for private-sector mandates ($154 million in 2015, adjusted annually for inflation).

JCT has determined that the tax provisions of H.R. 1891 contain no private-sector mandates as defined in UMRA.

Previous CBO estimate: On April 17, 2015, CBO transmitted an estimate of the effects on direct spending and revenues of H.R. 1891, as introduced by the House Committee on Ways and Means on April 17, 2015. Estimated costs for both versions of H.R. 1891 are the same.

Estimate prepared by: Federal Costs: Mark Grabowicz; Federal Revenues: Ann Futrell, Susan Willie, and staff of the Joint Committee on Taxation; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 1891 that the Committee concluded that it is appropriate to report the bill favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the revenue provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(j)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program In-

formation Act (Public Law 95–220, as amended by Public Law 98–169).

H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

TRADE ACT OF 1974

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TITLE V—GENERALIZED SYSTEM OF PREFERENCES

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SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) ELIGIBLE ARTICLES.—

(1) DESIGNATION.—

(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designa-

tion, such article may not be reconsidered for such designation for a period of 3 years after such denial.

(2) RULE OF ORIGIN.—

(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

(ii) the sum of—

(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

(i) simple combining or packaging operations, or

(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

(A) Except as provided in paragraph (4), textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

(C) Import-sensitive electronic articles.

(D) Import-sensitive steel articles.

(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

(F) Import-sensitive semimanufactured and manufactured glass products.

(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

(4) CERTAIN HAND-KNOTTED OR HAND-WOVEN CARPETS.—Notwithstanding paragraph (1)(A), the President may designate as an eligible article or articles under subsection (a) carpets or rugs which are hand-loomed, hand-woven, hand-hooked, hand-tufted, or hand-knotted, and classifiable under subheading 5701.10.16, 5701.10.40, 5701.90.10, 5701.90.20, 5702.10.90, 5702.42.20, 5702.49.10, 5702.51.20, 5702.91.30, 5702.92.00, 5702.99.10, 5703.10.00, 5703.20.10, or 5703.30.00 of the Harmonized Tariff Schedule of the United States.

(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(2) COMPETITIVE NEED LIMITATION.—

(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

(I) for 1996, $75,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

(B) COUNTRY DEFINED.—For purposes of this paragraph, the term "country" does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.

(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

(F) DE MINIMIS WAIVERS.—

(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

(I) for calendar year 1996, $13,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

(C) publishes the determination described in subparagraph (B) in the Federal Register.

(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

(A) there has been a historical preferential trade relationship between the United States and such country,

(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

(4) LIMITATIONS ON WAIVERS.—

(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

(B) OTHER WAIVER LIMITS.—(i) The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

(I) had a per capita gross national product (calculated on the basis of the best available information,

including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

(ii) Not later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article—

(I) having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year; or

(II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year.

(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

(i) entered duty-free under this title during such calendar year; and

(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

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SEC. 505. DATE OF TERMINATION.

No duty-free treatment provided under this title shall remain in effect after July 31, 2013.

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SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

(a) AUTHORITY TO DESIGNATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 107 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b)—

(A) if the President determines that the country meets the eligibility requirements set forth in section 104 of that Act, as such requirements are in effect on the date of the enactment of that Act; and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 502, if the country otherwise meets the eligibility criteria set forth in section 502.

(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor, review, and report to Congress annually on the progress of each country listed in section 107 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of this section. The President's determinations, and explanations of such determinations, with specific analysis of the eligibility requirements described in paragraph (1)(A), shall be included in the annual report required by section 106 of the African Growth and Opportunity Act.

(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1)(B) through (G) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage.

(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title—

(1) the terms "beneficiary sub-Saharan African country" and "beneficiary sub-Saharan African countries" mean a country or countries listed in section 107 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.

(2) the term "former beneficiary sub-Saharan African country" means a country that, after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

SEC. 506B. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

In the case of a beneficiary sub-Saharan African country, as defined in section 506A(c), duty-free treatment provided under this title shall remain in effect through September 30, 2015.

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AFRICAN GROWTH AND OPPORTUNITY ACT

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TITLE I—EXTENSION OF CERTAIN TRADE BENEFITS TO SUB-SAHARAN AFRICA

Subtitle A—Trade Policy for Sub-Saharan Africa

* * * * * * *

SEC. 104. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—The President is authorized to designate a sub-Saharan African country as an eligible sub-Saharan African country if the President determines that the country—

(1) has established, or is making continual progress toward establishing—

(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(C) the elimination of barriers to United States trade and investment, including by—

(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

(ii) the protection of intellectual property; and

(iii) the resolution of bilateral trade and investment disputes;

(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs;

(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(2) does not engage in activities that undermine United States national security or foreign policy interests; and

(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

(b) CONTINUING COMPLIANCE.—If the President determines that an eligible sub-Saharan African country is not making continual progress in meeting the requirements described in subsection (a)(1), the President shall terminate the designation of the country made pursuant to subsection (a).

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Subtitle B—Trade Benefits

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SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

(a) PREFERENTIAL TREATMENT.—Textile and apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country described in section 506A(c) of the Trade Act of 1974, shall enter the United States free of duty and free of any quantitative limitations in accordance with the provisions set forth in subsection (b), if the country has satisfied the requirements set forth in section 113.

(b) PRODUCTS COVERED.—Subject to subsection (c), the preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles

sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—

(A) entered under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(B) entered under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.

(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).

(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fab-

ric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:

(A) LIMITATIONS ON BENEFITS.—

(i) IN GENERAL.—Preferential treatment under this paragraph shall be extended in the 1-year period beginning October 1, 2003, and in each of the 11 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term "applicable percentage" means—

(I) 4.747 percent for the 1-year period beginning October 1, 2003, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the 1-year period beginning October 1, 2007, the applicable percentage does not exceed 7 percent; and

(II) for each succeeding 1-year period until September 30, 2015, not to exceed 7 percent.

(B) SURGE MECHANISM.—

(i) IMPORT MONITORING.—The Secretary of Commerce shall monitor imports of articles described in this paragraph on a monthly basis to determine if there has been a surge in imports of such articles. In order to permit public access to preliminary international trade data and to facilitate the early identification of potentially disruptive import surges, the Director of the Office of Management and Budget may grant an exception to the publication dates established for the release of data on United States international trade in covered articles, if the Director notifies Congress of the early release of the data.

(ii) DETERMINATION OF DAMAGE OR THREAT THEREOF.—Whenever the Secretary of Commerce determines, based on the data described in clause (i), or pursuant to a written request made by an interested party, that there has been a surge in imports of an article described in this paragraph from a beneficiary sub-Saharan African country, the Secretary shall determine whether such article from such country is being imported in such increased quantities as to cause serious damage, or threat thereof, to the domestic industry producing a like or directly competitive article. If the Secretary's determination is affirmative, the President shall suspend the duty-free treatment provided for such article under this paragraph. If the inquiry is initiated at the request of an interested party, the Secretary shall make the determination within 60 days after the date of the request.

(iii) FACTORS TO CONSIDER.—In determining whether a domestic industry has been seriously damaged, or is

threatened with serious damage, the Secretary shall examine the effect of the imports on relevant economic indicators such as domestic production, sales, market share, capacity utilization, inventories, employment, profits, exports, prices, and investment.

(iv) PROCEDURE.—

(I) INITIATION.—The Secretary of Commerce shall initiate an inquiry within 10 days after receiving a written request and supporting information for an inquiry from an interested party. Notice of initiation of an inquiry shall be published in the Federal Register.

(II) PARTICIPATION BY INTERESTED PARTIES.—The Secretary of Commerce shall establish procedures to ensure participation in the inquiry by interested parties.

(III) NOTICE OF DETERMINATION.—The Secretary shall publish the determination described in clause (ii) in the Federal Register.

(IV) INFORMATION AVAILABLE.—If relevant information is not available on the record or any party withholds information that has been requested by the Secretary, the Secretary shall make the determination on the basis of the facts available. When the Secretary relies on information submitted in the inquiry as facts available, the Secretary shall, to the extent practicable, corroborate the information from independent sources that are reasonably available to the Secretary.

(v) INTERESTED PARTY.—For purposes of this subparagraph, the term "interested party" means any producer of a like or directly competitive article, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or sale in the United States of a like or directly competitive article, a trade or business association representing producers or sellers of like or directly competitive articles, producers engaged in the production of essential inputs for like or directly competitive articles, a certified union or group of workers which is representative of an industry engaged in the manufacture, production, or sale of essential inputs for the like or directly competitive article, or a trade or business association representing companies engaged in the manufacture, production, or sale of such essential inputs.

(4) SWEATERS KNIT-TO-SHAPE FROM CASHMERE OR MERINO WOOL.—

(A) CASHMERE.—Sweaters, in chief weight of cashmere, knit-to-shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the Harmonized Tariff Schedule of the United States.

(B) MERINO WOOL.—Sweaters, 50 percent or more by weight of wool measuring 21.5 microns in diameter or

finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

(5) APPAREL ARTICLES WHOLLY ASSEMBLED FROM FABRIC OR YARN NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—

(A) IN GENERAL.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.

(B) ADDITIONAL APPAREL ARTICLES.—At the request of any interested party and subject to the following requirements, the President is authorized to proclaim the treatment provided under subparagraph (A) for yarns or fabrics not described in subparagraph (A) if—

(i) the President determines that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner;

(ii) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

(iii) within 60 calendar days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(I) the action proposed to be proclaimed and the reasons for such action; and

(II) the advice obtained under clause (ii);

(iv) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclauses (I) and (II) of clause (iii), has expired; and

(v) the President has consulted with such committees regarding the proposed action during the period referred to in clause (iii).

(C) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under subparagraph (A) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.

(6) HANDLOOMED, HANDMADE, FOLKLORE ARTICLES AND ETHNIC PRINTED FABRICS.—

(A) IN GENERAL.—A handloomed, handmade, folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this section, the President, after consultation with the beneficiary sub-Saharan African

country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric.

(B) REQUIREMENTS FOR ETHNIC PRINTED FABRIC.—Ethnic printed fabrics qualified under this paragraph are—

(i) fabrics containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the Harmonized Tariff Schedule of the United States;

(ii) of the type that contains designs, symbols, and other characteristics of African prints—

(I) normally produced for and sold on the indigenous African market; and

(II) normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

(iii) printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and

(iv) fabrics formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African country from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.

(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).

(8) TEXTILE ARTICLES ORIGINATING ENTIRELY IN ONE OR MORE LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Textile and textile articles classifiable under chapters 50 through 60 or chapter 63 of the Harmonized Tariff Schedule of the United States that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.

(c) LESSER DEVELOPED COUNTRIES.—

(1) PREFERENTIAL TREATMENT OF PRODUCTS THROUGH SEPTEMBER 30, 2015.—

(A) PRODUCTS COVERED.—In addition to the products described in subsection (b) the preferential treatment de-

scribed in subsection (a) shall apply through September 30, 2015, to apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term "applicable percentage" means—

(i) 2.9285 percent for the 1-year period beginning on October 1, 2005; and

(ii) 3.5 percent for the 1-year period beginning on October 1, 2006, and each 1-year period thereafter through September 30, 2015.

(2) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(3)(B) applies to apparel articles eligible for preferential treatment under this subsection to the same extent as that subsection applies to apparel articles eligible for preferential treatment under subsection (b)(3).

(3) DEFINITION.—In this subsection, the term "lesser developed beneficiary sub-Saharan African country" means—

(A) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

(B) Botswana;

(C) Namibia; and

(D) Mauritius.

(d) TREATMENT OF QUOTAS ON TEXTILE AND APPAREL IMPORTS FROM KENYA AND MAURITIUS.—The President shall eliminate the existing quotas on textile and apparel articles imported into the United States—

(1) from Kenya within 30 days after that country adopts an effective visa system to prevent unlawful transshipment of textile and apparel articles and the use of counterfeit documents relating to the importation of the articles into the United States; and

(2) from Mauritius within 30 days after that country adopts such a visa system.

The Customs Service shall provide the necessary technical assistance to Kenya and Mauritius in the development and implementation of the visa systems.

(e) SPECIAL RULES.—

(1) FINDINGS AND TRIMMINGS.—

(A) GENERAL RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if the value of such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled article. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim,

elastic strips, and zippers, including zipper tapes and labels. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and used in the production of brassieres.

(B) CERTAIN INTERLININGS.—

(i) GENERAL RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

(ii) INTERLININGS DESCRIBED.—Interlinings eligible for the treatment described in clause (i) include only a chest type plate, a "hymo" piece, or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(iii) TERMINATION OF TREATMENT.—The treatment described in this subparagraph shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

(C) EXCEPTION.—In the case of an article described in subsection (b)(2), sewing thread shall not be treated as findings or trimmings under subparagraph (A).

(2) DE MINIMIS RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries if the total weight of all such fibers and yarns is not more than 10 percent of the total weight of the article.

(3) CERTAIN COMPONENTS.—An article otherwise eligible for preferential treatment under this section will not be ineligible for such treatment because the article contains—

(A) any collars or cuffs (cut or knit-to-shape),

(B) drawstrings,

(C) shoulder pads or other padding,

(D) waistbands,

(E) belt attached to the article,

(F) straps containing elastic, or

(G) elbow patches,

that do not meet the requirements set forth in subsections (b) and (c), regardless of the country of origin of the item referred to in the applicable subparagraph of this paragraph.

(f) DEFINITIONS.—In this section and section 113:

(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term "Agreement on Textiles and Clothing" means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms "beneficiary sub-Saharan African country" and "beneficiary sub-Saharan African countries" have the same meaning

as such terms have under section 506A(c) of the Trade Act of 1974.

(3) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(4) FORMER SUB-SAHARAN AFRICAN COUNTRY.—The term "former sub-Saharan African country" means a country that, after being designated as a beneficiary sub-Saharan African country under this Act, ceased to be designated as such a beneficiary sub-Saharan country by reason of its entering into a free trade agreement with the United States.

(5) ENTER; ENTERED.—The terms "enter" and "entered" refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

(g) EFFECTIVE DATE.—This section takes effect on October 1, 2000, and shall remain in effect through September 30, 2015.

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CARIBBEAN BASIN ECONOMIC RECOVERY ACT

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TITLE II—CARIBBEAN BASIN INITIATIVE

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SUBTITLE A—DUTY-FREE TREATMENT

* * * * * * *

SEC. 213A. SPECIAL RULES FOR HAITI.

(a) DEFINITIONS.—In this section:

(1) INITIAL APPLICABLE 1-YEAR PERIOD.—The term "initial applicable 1-year period" means the 1-year period beginning on December 20, 2006.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—.[5] The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) freedom of association;

(B) the effective recognition of the right to bargain collectively;

(C) the elimination of all forms of compulsory or forced labor;

(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(E) the elimination of discrimination in respect of employment and occupation.

(4) ENTER; ENTRY.—The terms "enter" and "entry" refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

[5] The period following the point dash in paragraph (2) is so in law. See section 15403(1)(C) of Public Law 110–246.

(5) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are "imported directly from Haiti or the Dominican Republic" if—

(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

(I) remain under the control of the customs authority in the intermediate country;

(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

(6) KNIT-TO-SHAPE.—A good is "knit-to-shape" if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is "knit-to-shape." [6]

(7) TAICNAR PROGRAM.—The term "TAICNAR Program" means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).

(8) WHOLLY ASSEMBLED.—A good is "wholly assembled" in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is "wholly assembled" in Haiti.

(b) APPAREL AND OTHER TEXTILE ARTICLES.—

(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during the initial applicable 1-year period and any 1-year period

[6] So in law. The closing quotes should appear before the closing period.

thereafter, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).

(B) APPAREL ARTICLES DESCRIBED.—

(i) IN GENERAL.—In the initial applicable 1-year period and any 1-year period thereafter, apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, only if, for each entry in that 1-year period, the sum of—

(I) the cost or value of the materials produced in Haiti or one or more countries described in clause (iii), or any combination thereof, plus

(II) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or one or more countries described in clause (iii), or any combination thereof,

is not less than the applicable percentage (as defined in clause (v)(I)[7]) of the declared customs value of such apparel articles.

(ii) DEDUCTIONS.—In calculating cost or value under clause (i)(I), there shall be deducted the cost or value of—

(I) any foreign materials that are used in the production of the apparel articles in Haiti; and

(II) any foreign materials that are used in the production of the materials described in clause (i)(I).

(iii) COUNTRIES DESCRIBED.—The countries referred to in clause (i) are the following:

(I) The United States.

(II) Any country that is a party to a free trade agreement with the United States that is in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, or that enters into force thereafter.

(III) Any country designated as a beneficiary country under section 213(b)(5)(B) of this Act.

(IV) Any country designated as a beneficiary country under section 506A(a)(1) of the Trade Act of 1974 (19 U.S.C. 2466a(a)(1)), if a finding has been made by the President or the President's designee, and published in the Federal Register, that the country has satisfied the requirements of section 113 of the African Growth and Opportunity Act (19 U.S.C. 3722).

(V) Any country designated as a beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)).

(iv) ANNUAL AGGREGATION.—

[7] The amendment made by section 15402(a)(3)(A)(iv) of Public Law 110–246 was carried out to reflect the probable intent of Congress. Such amendment states to strike "subparagraph (E)(I)" and insert "clause (v)(I)", which probably should have been made to strike "subparagraph (E)(i)".

(I) INITIAL APPLICABLE 1-YEAR PERIOD.—In the initial applicable 1-year period, the requirements under clause (i) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the initial applicable 1-year period by aggregating—

(aa) the cost or value of materials under subclause (I) of clause (i), and

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the initial applicable 1-year period.

(II) OTHER 1-YEAR PERIODS.—In any 1-year period after the initial applicable 1-year period, the requirements under clause (i) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the 1-year period by aggregating—

(aa) the cost or value of materials under subclause (I) of clause (i), and

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding 1-year period.

(III) DEDUCTIONS.—In calculating cost or value under subclause (I)(aa) or (II)(aa), there shall be deducted the cost or value of—

(aa) any foreign materials that are used in the production of the apparel articles in Haiti; and

(bb) any foreign materials that are used in the production of the materials described in subclause (I)(aa) or (II)(aa) (as the case may be).

(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the "General" column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.

(v) DEFINITIONS.—In this paragraph:

(I) APPLICABLE PERCENTAGE.—The term "applicable percentage" means—

(aa) 50 percent or more during the initial applicable 1-year period and the succeeding 8 1-year periods;

(bb) 55 percent or more during the 1-year period beginning on December 20, 2015, and the 1-year period beginning on December 20, 2016; and

(cc) 60 percent or more during the 1-year period beginning on December 20, 2017.

(II) FOREIGN MATERIAL.—The term "foreign material" means a material produced in a country other than Haiti or any country described in clause (iii).

(vi) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—

(I) IN GENERAL.—U.S. Customs and Border Protection of the Department of Homeland Security shall develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in clauses (i) and (iv).

(II) NONCOMPLIANCE.—If U.S. Customs and Border Protection finds that a producer or an entity controlling production has not satisfied such requirements in the initial applicable 1-year period or any 1-year period thereafter, either for individual entries entered pursuant to clause (i) or for entries entered in aggregate pursuant to clause (iv), then apparel articles described in clause (i) of that producer or entity shall be ineligible for preferential treatment under paragraph (1) during any succeeding 1-year period until—

(aa) the cost or value of materials under subclause (I) of clause (i), plus

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of that producer or entity controlling production, is not less than the applicable percentage under clause (v)(I), plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding 1-year period.

(III) RETROACTIVE APPLICATION OF DUTY-FREE TREATMENT.—If—

(aa) a producer or an entity controlling production is ineligible for preferential treatment under subparagraph (A) in the initial applicable 1-year period or any 1-year period thereafter because that producer or entity controlling production did not satisfy the requirements of clause (i) or (iv), and

(bb) that producer or entity controlling production satisfies the requirements of subclause (II) of this clause in that 1-year period,

then, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with U.S. Customs

and Border Protection before the 90th day after U.S. Customs and Border Protection determines that item (bb) applies, the entry of any articles—

(AA) that was made during that 1-year period, and

(BB) with respect to which there would have been preferential treatment under subparagraph (A) if the producer or entity controlling production had satisfied the requirements in clause (i) or (iv) (as the case may be),

shall be liquidated or reliquidated as though such preferential treatment under subparagraph (A) applied to such entry.

(vii) FABRICS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—

(I) IN GENERAL.—For purposes of determining the applicable percentage under clause (i) or (iv), there may be included in that percentage—

(aa) the cost of fabrics or yarns to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA; and

(bb) the cost of fabrics or yarns that are designated as not being available in commercial quantities for purposes of—

(AA) section 213(b)(2)(A)(v) of this Act,

(BB) section 112(b)(5) of the African Growth and Opportunity Act,

(CC) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act, or

(DD) 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 that enters into force with respect to the United States,

without regard to the source of the fabrics or yarns.

(II) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

(aa) any fabric or yarn described in subclause (I)(aa) was determined to be eligible for preferential treatment, or

(bb) any fabric or yarn described in subclause (I)(bb) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(C) QUANTITATIVE LIMITATIONS.—The preferential treatment described in subparagraph (A) shall be extended, during each of the 1-year periods set forth in the following table, to not more than the corresponding percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available:

During:	**the corresponding percentage is:**
the initial applicable 1-year period	1 percent.
each of the succeeding 11 1-year periods	1.25 percent.

No preferential treatment shall be provided under subparagraph (A) after December 19, 2018.

(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).

(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) LIMITATION.—Except as provided in paragraph (2A), the preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 11 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

(bb) All white singlets, without pockets, trim, or embroidery.

(cc) Other T-shirts, but not including thermal undershirts.

(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

(aa) Sweatshirts.

(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

(iii) LIMITATION.—Except as provided in paragraph (2A), the preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 11 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).

(2A) SPECIAL RULE FOR CERTAIN WOVEN ARTICLES AND CERTAIN KNIT ARTICLES ENTERED DURING FISCAL YEAR 2010 AND SUCCEEDING 1-YEAR PERIODS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and subject to subparagraph (D), if 52,000,000

square meter equivalents of apparel articles described in paragraph (2)(A)(i) or (2)(B)(i) enter the United States during the 1-year period beginning October 1, 2009, or any of the succeeding 1-year periods, the President shall extend the preferential treatment described in paragraph (2)(A)(i) or (2)(B)(i) (as the case may be) to not more than 200,000,000 square meter equivalents of apparel articles described in paragraph (2)(A)(i) or (2)(B)(i) (as the case may be) during that 1-year period, and shall publish notice of the extension in the Federal Register.

(B) EXCEPTION FOR CERTAIN WOVEN ARTICLES.—

(i) IN GENERAL.—In the case of apparel articles described in clause (ii), subparagraph (A) shall be applied by substituting "70,000,000" for "200,000,000".

(ii) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles described in paragraph (2)(A)(i) that are the following:

(I) CATEGORY 347.—Apparel articles in category 347 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6203.19.1020	6203.42.4011	6203.42.4061
6203.19.9020	6203.42.4016	6203.49.8020
6203.22.3020	6203.42.4026	6210.40.9033
6203.22.3030	6203.42.4036	6211.20.1520
6203.42.4003	6203.42.4046	6211.20.3810
6203.42.4006	6203.42.4051	6211.32.0040

(II) CATEGORY 348.—Apparel articles in category 348 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6204.12.0030	6204.62.4011	6204.69.9010
6204.19.8030	6204.62.4021	6210.50.9060
6204.22.3040	6204.62.4031	6211.20.1550
6204.22.3050	6204.62.4041	6211.20.6810
6204.29.4034	6204.62.4051	6211.42.0030
6204.62.3000	6204.62.4056	6217.90.9050
6204.62.4003	6204.62.4066	
6204.62.4006	6204.69.6010	

(III) CATEGORY 647.—Apparel articles in category 647 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6203.23.0060	6203.43.4020	6203.49.8030
6203.23.0070	6203.43.4030	6210.40.5031
6203.29.2030	6203.43.4040	6210.40.5039
6203.29.2035	6203.49.1500	6211.20.1525
6203.43.2500	6203.49.2015	6211.20.3820
6203.43.3510	6203.49.2030	6211.33.0030

6203.43.3590	6203.49.2045	
6203.43.4010	6203.49.2060	

(IV) CATEGORY 648.—Apparel articles in category 648 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6204.23.0040	6204.63.3510	6204.69.6030
6204.23.0045	6204.63.3530	6204.69.9030
6204.29.2020	6204.63.3532	6210.50.5031
6204.29.2025	6204.63.3540	6210.50.5039
6204.29.4038	6204.69.2510	6211.20.1555
6204.63.2000	6204.69.2530	6211.20.6820
6204.63.3010	6204.69.2540	6211.43.0040
6204.63.3090	6204.69.2560	6217.90.9060

(C) EXCEPTION FOR CERTAIN KNIT ARTICLES.—

(i) IN GENERAL.—In the case of apparel articles described in clause (ii), subparagraph (A) shall be applied by substituting "85,000,000" for "200,000,000".

(ii) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles described in paragraph (2)(B)(i) that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph), other than shirts with plackets and pointed collars:

6105.10.0010	6109.10.0040	6110.30.3053
6109.10.0018	6109.10.0045	6110.30.3059
6109.10.0027	6110.20.2079	

(D) VERIFICATION WITH RESPECT TO TRANSSHIPMENT FOR CERTAIN APPAREL ARTICLES.—

(i) IN GENERAL.—Not later than April 1, July 1, October 1, and January 1 of each year, the Commissioner responsible for United States Customs and Border Protection shall verify that apparel articles imported into the United States under this paragraph are not being unlawfully transshipped (within the meaning of subsection (f)) into the United States.

(ii) REPORT TO PRESIDENT.—If the Commissioner determines pursuant to clause (i) that apparel articles imported into the United States under this paragraph are being unlawfully transshipped into the United States, the Commissioner shall report that determination to the President.

(iii) AUTHORITY TO REDUCE QUANTITATIVE LIMITATION.—If, in any 1-year period with respect to which the President extends preferential treatment as described in this paragraph, the Commissioner reports to the President pursuant to clause (ii) regarding unlawful transshipments, the President—

(I) may modify the quantitative limitation under this paragraph as the President considers appropriate to account for such transshipments; and

(II) if the President modifies the limitation under subclause (I), shall publish notice of the modification in the Federal Register.

(E) CATEGORY DEFINED.—In this paragraph, the term “category” means the number assigned under the U.S. Textile and Apparel Category System of the Office of Textiles and Apparel of the Department of Commerce, as listed in the HTS under the applicable heading or subheading (as in effect on the day before the date of the enactment of this paragraph).

(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference in such chapter rules to “6104.12.00” shall be deemed to be a reference to “6104.19.60”.

(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.

(F) CERTAIN OTHER APPAREL ARTICLES.—

(i) IN GENERAL.—Any of the apparel articles described in clause (ii) that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles in the following category numbers that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this subparagraph):

Category Number	**HTS Statistical Reporting Number**
334	6101.90.9010
	6112.11.0010
	6103.22.0010
	6113.00.9015
335	6104.22.0010
	6104.29.2010

	6112.11.0020
336	6104.49.9010
338	6103.22.0050 6105.90.8010 6112.11.0030
339	6104.22.0060 6104.29.2049 6106.90.2510 6106.90.3010 6110.20.1031 6110.20.1033 6112.11.0040
342	6104.22.0030 6104.29.2022 6104.52.0010 6104.52.0020 6104.59.8010
350	6107.91.0040 6107.91.0090
351	6107.21.0010 6107.21.0020 6107.91.0030 6108.31.0010 6108.31.0020
433	6103.23.0007 6103.29.0520 6103.31.0000 6103.33.1000 6103.39.8020
434	6101.30.1500 6101.90.0500 6101.90.9020 6103.23.0005 6103.29.0510
435	6102.30.1000 6102.90.9010 6104.23.0010 6104.29.0510

	6104.29.2012 6104.33.1000 6104.39.2020
438	6103.23.0025 6103.29.0550 6104.23.0020 6104.29.0560 6104.29.2051 6105.90.1000 6105.90.8020 6106.20.1020 6106.90.1010 6106.90.1020 6106.90.2520 6106.90.3020 6110.11.0070 6110.12.2070 6110.12.2080 6110.19.0070 6110.19.0080 6110.30.1550 6110.30.1560
633	6103.23.0037 6103.29.1015 6103.33.2000 6103.39.1000 6103.39.8030
634	6101.30.1000 6101.90.9030 6103.23.0036 6103.29.1010 6112.12.0010 6112.19.1010 6112.20.1010 6112.20.1030 6113.00.9025
635	6102.30.0500 6102.90.9015 6104.23.0026 6104.29.1010 6104.29.2014 6104.39.2030

	6112.12.0020 6112.19.1020 6112.20.1020 6112.20.1040 6113.00.9030
636	6104.49.9030 6104.44.2020
638	6103.23.0075 6103.29.1050 6105.90.8030 6110.30.1050 6110.30.2051 6110.30.2053 6112.12.0030 6112.19.1030
639	6104.23.0036 6104.29.1050 6104.29.2055 6106.90.2530 6106.90.3030 6110.30.1060 6110.30.2061 6110.30.2063 6112.12.0040 6112.19.1040
651	6107.22.0010 6107.22.0015 6107.22.0025 6107.99.1030 6108.32.0015

(iii) CATEGORY DEFINED.—In this subparagraph, the term "category" has the meaning given that term in paragraph (2A)(E) of this subsection.

(G) MADE-UP TEXTILE ARTICLES.—

(i) IN GENERAL.—Any of the made-up textile articles described in clauses (ii) and (iii) that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) ARTICLES DESCRIBED.—Made-up textile articles described in this clause are articles in the following category numbers that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this subparagraph):

Category Number	HTS Statistical Reporting Number
363	6302.60.0020 6302.91.0015 6302.91.0035 6307.90.8940
369	6304.91.0020 6304.92.0000 6302.60.0010 6302.60.0030 6302.91.0005 6302.91.0050 6307.90.8910 6307.90.8945 5701.90.2020 5702.39.2010 5702.50.5600 5702.99.0500 5702.99.1500 5705.00.2020 5807.10.0510 5807.90.0510 6307.90.3010 6301.30.0010 6305.20.0000 6307.10.1020 6307.10.1090 6406.10.7700 9404.90.1000 9404.90.9505 6301.30.0020 6302.91.0045
465	5701.10.9000 5702.50.2000 5702.50.4000 5702.91.3000 5702.91.4000

	5703.10.2000 5703.10.8000 5704.10.0010 5705.00.2005 5705.00.2015 5702.31.1000 5702.31.2000
469	6304.19.3040 6304.91.0050 6304.99.1500 6304.99.6010 5601.29.0020 6302.39.0010 6406.10.9020
665	5701.90.1030 5701.90.2030 5702.32.1000 5702.32.2000 5702.42.2090 5702.50.5200 5702.92.1000 5702.92.9000 5703.20.1000 5703.30.2000 5703.30.8030 5703.30.8080 5704.10.0090 5705.00.2030 5703.20.2010 5703.20.2090
666	6304.11.2000 6304.91.0040 6304.93.0000 6304.99.6020 6301.40.0010 6301.40.0020 6301.90.0010
669	5601.10.2000 5601.22.0090 5807.10.0520 5807.90.0520 6307.90.3020

	6305.32.0010 6305.32.0020 6305.32.0050 6305.32.0060 6305.39.0000 6406.10.9040 6308.00.0020
899	6304.11.3000 6304.19.3060 6304.91.0070 6304.99.3500 6304.99.6040 5601.29.0090 6301.90.0030 6305.90.0000 6406.10.9060
900	5601.29.0010 5701.90.2010 6301.90.0020

(iii) OTHER ARTICLES DESCRIBED.—Made-up textile articles described in this clause are articles that fall within statistical reporting number 6406.10.9090 of the HTS (as in effect on the day before the date of the enactment of this subparagraph).

(iv) CATEGORY DEFINED.—In this subparagraph, the term "category" has the meaning given that term in paragraph (2A)(E) of this subsection.

(4) EARNED IMPORT ALLOWANCE RULE.—

(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, 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 such apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, 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.—

(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

(I) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (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 shall be deposited.

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

(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

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

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

(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or (IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and dis-

closure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).

(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term "qualifying woven fabric" means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term "qualifying knit fabric" means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph (1)(B)(iii), from yarns wholly formed in the United States, except that—

(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon fila-

ment yarn to which section 213(b)(2)(A)(vii)(IV) applies;

(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

(C) [8] ENFORCEMENT PROVISIONS.—

(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code.

(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).

(5) SHORT SUPPLY PROVISION.—

(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

(I) section 213(b)(2)(A)(v) of this Act;

(II) section 112(b)(5) of the African Growth and Opportunity Act;

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[8] Section 2(f) of Public Law 112–234 amends section 231A(b)(4) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C). The amendment was executed to section 213A since the Act does not contain a section 231A in order to reflect the probable intent of Congress.

(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

(IV) 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.

(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.

(c) SPECIAL RULE FOR CERTAIN WIRE HARNESS AUTOMOTIVE COMPONENTS.—

(1) IN GENERAL.—Any wire harness automotive component that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States shall enter the United States free of duty, during the 10-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, if Haiti has met the requirements of subsection (d) and if the sum of—

(A) the cost or value of the materials produced in Haiti or one or more countries described in subsection (b)(2)(C), or any combination thereof, plus

(B) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or the United States, or both,

is not less than 50 percent of the declared customs value of such wire harness automotive component.

(2) WIRE HARNESS AUTOMOTIVE COMPONENT.—For purposes of this subsection, the term "wire harness automotive component" means any article provided for in subheading 8544.30.00 of the HTS, as in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

(d) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti—

(A) has established, or is making continual progress toward establishing—

(i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(iii) the elimination of barriers to United States trade and investment, including by—

(I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

(II) the protection of intellectual property; and

(III) the resolution of bilateral trade and investment disputes;

(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

(v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

(vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(B) does not engage in activities that undermine United States national security or foreign policy interests; and

(C) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

(2) TIME LIMIT FOR DETERMINATION.—The President shall determine whether Haiti meets the requirements of paragraph (1) not later than 90 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

(3) CONTINUING COMPLIANCE.—If the President determines that Haiti is not making continual progress in meeting the requirements described in paragraph (1)(A), the President shall terminate the preferential treatment under this section.

(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as

those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).

(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—

(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps.

(C) CONTINUING COMPLIANCE.—

(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall rein-

state the application of preferential treatment under subsection (b).

(2) LABOR OMBUDSMAN.—

(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

(i) reports directly to the President of Haiti;

(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

(iii) is vested with the authority to perform the functions described in subparagraph (B).

(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

(ii) to provide assistance to improve the capacity of the Government of Haiti—

(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

(i) compliance with core labor standards; and

(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

(I) conducting unannounced site visits to manufacturing facilities of the producer;

(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

(aa) the results of the assessment carried out under this clause; and

(bb) specific suggestions for remediating any such deficiencies;

(iv) assist the producer in remediating any deficiencies identified under clause (iii);

(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

(iii) For each producer listed under clause (ii)—

(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters

relating to core labor standards and national labor laws;

(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

(B) PRODUCER ELIGIBILITY.—

(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential treatment under subsection (b) to the articles of the producer.

(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

(5) REPORTS BY THE PRESIDENT.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.

(f) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

(1) IN GENERAL.—The preferential treatment under subsection (b)(1) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

(B) Haiti has enacted legislation or promulgated regulations that would permit U.S. Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

(C) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.

(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of such articles, including materials used in the production, for at least 5 years after the production or export (as the case may be).

(F) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, documentation establishing the country of origin of articles described

in subsection (b) as used by that country in implementing an effective visa system.

(2) DEFINITION OF TRANSSHIPMENT.—Transshipment within the meaning of this subsection has occurred when preferential treatment for a textile or apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under this section.

(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of "imported directly from Haiti or the Dominican Republic", articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be "imported directly from Haiti or the Dominican Republic" until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).

(g) REGULATIONS.—The President shall issue regulations to carry out this section not later than 180 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such regulations.

(h) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2020.

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CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

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SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) For the arrival of a commercial truck, $5.

(3) For the arrival of each railroad car carrying passengers or commercial freight, $7.50.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), $5.

(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, $1.75.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

(8) For the arrival of a barge or other bulk carrier from Canada or Mexico, $100.

(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.21 percent ad valorem, unless adjusted under subparagraph (B).

(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) to an ad valorem rate (but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than $485 nor less than $21) to rates and amounts which would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during the fiscal year in which such costs are incurred.

(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under subsection (f) with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

(I) not later than 45 days after the date of the enactment of the Act providing full-year appropriations for the Customs Service for that fiscal year, publishes in the Federal Register a notice of intent to adjust the fee under this paragraph and the amount of such adjustment;

(II) provides a period of not less than 30 days following publication of the notice described in subclause (I) for public comment and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment and the methodology used to determine such adjustment;

(III) upon the expiration of the period provided under subclause (II), notifies such committees in writing regarding the final determination to adjust the fee, the amount of such adjustment, and the methodology used to determine such adjustment; and

(IV) upon the expiration of the 15-day period following the written notification described in subclause (III), submits for publication in the Federal Register notice of the final determination regarding the adjustment of the fee.

(iv) The 15-day period referred to in clause (iii)(IV) shall be computed by excluding—

(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

(v) An adjustment made under this subparagraph shall become effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice described in clause (iii)(IV) and shall remain in effect until adjusted under this subparagraph.

(C) Any fee charged under this paragraph, whether or not adjusted under subparagraph (B), is subject to the limitations in subsection (b)(8)(A).

(10) For the processing of merchandise that is informally entered or released, other than at—

(A) a centralized hub facility,

(B) an express consignment carrier facility, or

(C) a small airport or other facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release, a fee of—

(i) $2 if the entry or release is automated and not prepared by customs personnel;

(ii) $6 if the entry or release is manual and not prepared by customs personnel; or

(iii) $9 if the entry or release, whether automated or manual, is prepared by customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), see subsection (b)(9).

(b) LIMITATIONS ON FEES.—(1)(A) Except as provided in subsection (a)(5)(B) of this section, no fee may be charged under subsection (a) of this section for customs services provided in connection with—

(i) the arrival of any passenger whose journey—

(I) originated in a territory or possession of the United States; or

(II) originated in the United States and was limited to territories and possessions of the United States;

(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any

country other than the country in which such car originates and terminates;

(iii) the arrival of a ferry, except for a ferry whose operations begin on or after August 1, 1999, and that operates south of 27 degrees latitude and east of 89 degrees longitude; or

(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(4)(A) No fee may be charged under subsection (a)(5) with respect to the arrival of any passenger—

(i) who is in transit to a destination outside the customs territory of the United States, and

(ii) for whom customs inspectional services are not provided.

(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.

(5) No fee may be charged under subsection (a)(1) for the arrival of—

(A) a vessel during a calendar year after a total of $5,955 in fees charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such vessel during such calendar year,

(B) any vessel which, at the time of the arrival, is being used solely as a tugboat, or

(C) any barge or other bulk carrier from Canada or Mexico.

(6) No fee may be charged under subsection (a)(8) for the arrival of a barge or other bulk carrier during a calendar year after a total of $1,500 in fees charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such barge or other bulk carrier during such calendar year.

(7) No fee may be charged under paragraph (2), (3), or (4) of subsection (a) for the arrival of any—

(A) commercial truck,

(B) railroad car, or

(C) private vessel,

that is being transported, at the time of the arrival, by any vessel that is not a ferry.

(8)(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) for the formal entry or release of merchandise may not exceed $485 or be less than $25, unless adjusted pursuant to subsection (a)(9)(B).

(ii) A surcharge of $3 shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

(B) No fee may be charged under subsection (a) (9) or (10) for the processing of any article that is—

(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

(ii) a product of an insular possession of the United States, or

(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

(C) For purposes of applying subsection (a) (9) or (10)—

(i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—

(I) air passenger processing,

(II) export control, or

(III) international affairs, and

(ii) any reference to a manual formal or informal entry or release includes any entry or release filed by a broker or importer that requires the inputting of cargo selectivity data into the Automated Commercial System by customs personnel, except when—

(I) the broker or importer is certified as an ABI cargo release filer under the Automated Commercial System at any port within the United States, or

(II) the entry or release is filed at ports prior to the full implementation of the cargo selectivity data system by the Customs Service at such ports.

(D) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—

(i) be paid by the importer of record of the merchandise;

(ii) except as otherwise provided in this paragraph, be based on the value of the merchandise as determined under section 402 of the Tariff Act of 1930;

(iii) in the case of merchandise classified under subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States, be applied to the value of the foreign repairs or alterations to the merchandise;

(iv) in the case of merchandise classified under heading 9802.00.80 of such Schedule, be applied to the full value of the merchandise, less the cost or value of the component United States products;

(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise; and

(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).

With respect to merchandise that is classified under subheading 9802.00.60 or heading 9802.00.80 of such Schedule and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

(E) For purposes of subsection (a) (9) and (10), merchandise is entered or released, as the case may be, if the merchandise is—

(i) permitted or released under section 448(b) of the Tariff Act of 1930,

(ii) entered or released from customs custody under section 484(a)(1)(A) of the Tariff Act of 1930, or

(iii) withdrawn from warehouse for consumption.

(9)(A) With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is $2,000 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) In the case of a small airport or other facility—

(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

(I) $.66 per individual airway bill or bill of lading; and

(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.

(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $.35 and not more than $1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) (I) or (II) shall be the only payment required for reimbursement

of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.

(C) For purposes of this paragraph:

(i) The terms "centralized hub facility" and "express consignment carrier facility" have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations. Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).

(ii) The term "small airport or other facility" means any airport or facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.

(10)(A) The fee charged under subsection (a) (9) or (10) with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) when the United States-Canada Free-Trade Agreement is in force shall be in accordance with article 403 of that Agreement.

(B) For goods qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act, the fee under subsection (a) (9) or (10)—

(i) may not be charged with respect to goods that qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement, for such time as Canada is a NAFTA country, as defined in section 2(4) of such Implementation Act; and

(ii) may not be increased after December 31, 1993, and may not be charged after June 29, 1999, with respect to goods that qualify to be marked as goods of Mexico pursuant to such Annex 311, for such time as Mexico is a NAFTA country.

Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(11) No fee may be charged under subsection (a) (9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.

(12) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Chile Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(13) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Singapore Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(14) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Australia Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(16) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Bahrain Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(17) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided

by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(18) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(19) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States–Korea Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(20) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States–Colombia Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(21) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States–Panama Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(c) DEFINITIONS.—For purposes of this section—

(1) The term “ferry” means any vessel which is being used—

(A) to provide transportation only between places that are no more than 300 miles apart, and

(B) to transport only—

(i) passengers, or

(ii) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

(2) The term “arrival” means arrival at a port of entry in the customs territory of the United States.

(3) The term “customs territory of the United States” has the meaning given to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(4) The term “customs broker permit” means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(5) The term “barge or other bulk carrier” means any vessel which—

(A) is not self-propelled, or

(B) transports fungible goods that are not packaged in any form.

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(4)(A) Notice of the date on which payment of the fee imposed by subsection (a)(7) is due shall be published by the Secretary of the Treasury in the Federal Register by no later than the date that is 60 days before such due date.

(B) A customs broker permit may be revoked or suspended for nonpayment of the fee imposed by subsection (a)(7) only if notice of the date on which payment of such fee is due was published in the Federal Register at least 60 days before such due date.

(C) The customs broker's license issued under section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) may not be revoked or suspended merely by reason of nonpayment of the fee imposed under subsection (a)(7).

(e) PROVISION OF CUSTOMS SERVICES.—

(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(2)(A) This subsection shall not apply with respect to any airport to which section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) applies.

(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.

(3) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law—

(A) the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights when needed at places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services, and

(B) other than the fees imposed under subsection (a), the airlines and airline passengers shall not be required to reimburse the Secretary of the Treasury for the costs of providing overtime customs inspectional services at such places.

(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

(5) For purposes of this subsection, customs services shall be treated as being "adequately provided" if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

(A) the unavoidability of weather, mechanical, and other delays;

(B) the necessity for prompt and efficient passenger and baggage clearance;

(C) the perishability of cargo;

(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

(F) the need for specific enforcement checks.

(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

(A) for any—

(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

(C) in connection with—

(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).

(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the "Customs User Fee Account". Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except—

(A) the portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations, and

(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (4).

(2) Except as otherwise provided in this subsection, all funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting customs revenue functions as defined in section 415 of the Homeland Security Act of 2002 (other than functions performed by the Office of International Affairs referred to in section 415(8) of that Act), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be available, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) (other than the fees under subsection (a) (9) and (10) and the excess fees determined by the Secretary under paragraph (4)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

(i) in—

(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,

(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I),

(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

(V) paying foreign language proficiency awards under section 13812(b) of the Omnibus Budget Reconciliation Act of 1993,

(ii) to the extent funds remain available after making reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection (a) (distributed on a basis proportionate to the fees collected under paragraphs (1) through (8) of subsection (a), and

(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.

The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i). Funds described in clause (ii) shall only be available to reimburse costs in excess of the highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

(B) Reimbursement of appropriations under this paragraph—

(i) shall be subject to apportionment or similar administrative practices;

(ii) shall be made at least quarterly; and

(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to reimburse costs described in subparagraph (A)(i) shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that $30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A) (i) and (ii), shall be used for—

(I) the costs of providing the services described in subparagraph (A)(i), and

(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to inspectional services under section 5 of the Act of February 13, 1911, as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13812(a)(1) of such Act of 1993, plus the actual cost that is incurred during that fiscal year for foreign language proficiency awards under section 13812(b) of such Act of 1993,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).

(D) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees collected under subsection (a), to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).

(4)(A) There is created within the general fund of the Treasury a separate account that shall be known as the "Customs Commercial and Homeland Security Automation Account". In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.

(5) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.

(g) REGULATIONS AND ENFORCEMENT.—(1) The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section. Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a)(5)

and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(2) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

(j) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

(3)(A) Fees may not be charged under paragraphs (9) and (10) of subsection (a) after September 30, 2024.

(B)(i) Subject to clause (ii), Fees may not be charged under paragraphs (1) through (8) of subsection (a) after September 30, 2024.

(ii) In fiscal year 2006 and in each succeeding fiscal year for which fees under paragraphs (1) through (8) of subsection (a) are authorized—

(I) the Secretary of the Treasury shall charge fees under each such paragraph in amounts that are reasonably related to the costs of providing customs services in connection with the activity or item for which the fee is charged under such paragraph, except that in no case may the fee charged under any such paragraph exceed by more than 10 percent the amount otherwise prescribed by such paragraph;

(II) the amount of fees collected under such paragraphs may not exceed, in the aggregate, the amounts paid in that fiscal year for the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fees are charged under such paragraphs;

(III) a fee may not be collected under any such paragraph except to the extent such fee will be expended to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph; and

(IV) any fee collected under any such paragraph shall be available for expenditure only to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph.

(k) ADVISORY COMMITTEE.—The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a). The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.

* * * * * * *

SECTION 503 OF THE UNITED STATES–KOREA FREE TRADE AGREEMENT IMPLEMENTATION ACT

SEC. 503. RATE FOR MERCHANDISE PROCESSING FEES.

For the period beginning on December 1, 2015, and ending on June 30, 2021, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

(1) in subparagraph (A), by substituting "0.3464" for "0.21"; and

(2) in subparagraph (B)(i), by substituting "0.3464" for "0.21".

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

* * * * * * *

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

* * * * * * *

SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) ELIGIBLE ARTICLES.—

(1) DESIGNATION.—

(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

(2) RULE OF ORIGIN.—

(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

(ii) the sum of—

(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

(i) simple combining or packaging operations, or

(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

(A) Except as provided in paragraph (4), textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

(C) Import-sensitive electronic articles.

(D) Import-sensitive steel articles.

(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

(F) Import-sensitive semimanufactured and manufactured glass products.

(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-

quota quantity shall be eligible for duty-free treatment under this title.

(4) CERTAIN HAND-KNOTTED OR HAND-WOVEN CARPETS.—Notwithstanding paragraph (1)(A), the President may designate as an eligible article or articles under subsection (a) carpets or rugs which are hand-loomed, hand-woven, hand-hooked, hand-tufted, or hand-knotted, and classifiable under subheading 5701.10.16, 5701.10.40, 5701.90.10, 5701.90.20, 5702.10.90, 5702.42.20, 5702.49.10, 5702.51.20, 5702.91.30, 5702.92.00, 5702.99.10, 5703.10.00, 5703.20.10, or 5703.30.00 of the Harmonized Tariff Schedule of the United States.

(5) CERTAIN COTTON ARTICLES.—Notwithstanding paragraph (3), the President may designate as an eligible article or articles under subsection (a)(1)(B) only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) cotton articles classifiable under subheading 5201.00.18, 5201.00.28, 5201.00.38, 5202.99.30, or 5203.00.30 of the Harmonized Tariff Schedule of the United States.

(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(2) COMPETITIVE NEED LIMITATION.—

(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

(I) for 1996, $75,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

(B) COUNTRY DEFINED.—For purposes of this paragraph, the term "country" does not include an association of countries which is treated as one country under section 507(2),

but does include a country which is a member of any such association.

(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.

(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

(F) DE MINIMIS WAIVERS.—

(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

(I) for calendar year 1996, $13,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

(C) publishes the determination described in subparagraph (B) in the Federal Register.

(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

(A) there has been a historical preferential trade relationship between the United States and such country,

(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

(4) LIMITATIONS ON WAIVERS.—

(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

(B) OTHER WAIVER LIMITS.—(i) The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

(I) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

(ii) Not later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article—

(I) having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year; or

(II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year.

(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

(i) entered duty-free under this title during such calendar year; and

(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

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SEC. 505. DATE OF TERMINATION.

No duty-free treatment provided under this title shall remain in effect after ⟦July 31, 2013⟧ *December 31, 2017*.

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SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

(a) AUTHORITY TO DESIGNATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 107 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b)—

(A) if the President determines that the country meets the eligibility requirements set forth in section 104 of that Act, as such requirements are in effect on the date of the enactment of that Act; and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 502, if the country otherwise meets the eligibility criteria set forth in section 502.

(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor, review, and report to Congress annually on the progress of each country listed in section 107 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of this section. The President's determinations, and explanations of such determinations, with specific analysis of the eligibility requirements described in paragraph (1)(A), shall be included in the annual report required by section 106 of the African Growth and Opportunity Act.

(3) CONTINUING COMPLIANCE.—[If the President]

(A) IN GENERAL.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

(B) NOTIFICATION.—The President may not terminate the designation of a country as a beneficiary sub-Saharan African country under subparagraph (A) unless, at least 60 days before the termination of such designation, the President notifies Congress and notifies the country of the President's intention to terminate such designation, together with the considerations entering into the decision to terminate such designation.

(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1)(B) through (G) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); [and]

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage[.]*; and*

(C) the direct costs of processing operations performed in one or more such beneficiary sub-Saharan African coun-

tries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage.

(3) RULES OF ORIGIN UNDER THIS TITLE.—The exceptions set forth in subparagraphs (A), (B), and (C) of paragraph (2) shall also apply to any article described in section 503(a)(1) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country for purposes of any determination to provide duty-free treatment with respect to such article.

(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF PREFERENTIAL TARIFF TREATMENT.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of duty-free treatment provided for any article described in subsection (b)(1) of this section or section 112 of the African Growth and Opportunity Act with respect to a beneficiary sub-Saharan African country if the President determines that withdrawing, suspending, or limiting such duty-free treatment would be more effective in promoting compliance by the country with the requirements described in subsection (a)(1) than terminating the designation of the country as a beneficiary sub-Saharan African country for purposes of this section.

(2) NOTIFICATION.—The President may not withdraw, suspend, or limit the application of duty-free treatment under paragraph (1) unless, at least 60 days before such withdrawal, suspension, or limitation, the President notifies Congress and notifies the country of the President's intention to withdraw, suspend, or limit such duty-free treatment, together with the considerations entering into the decision to terminate such designation.

(d) REVIEW AND PUBLIC COMMENTS ON ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—In carrying out subsection (a)(2), the President shall publish annually in the Federal Register a notice of review and request for public comments on whether beneficiary sub-Saharan African countries are meeting the eligibility requirements set forth in section 104 of the African Growth and Opportunity Act and the eligibility criteria set forth in section 502 of this Act.

(2) PUBLIC HEARING.—The United States Trade Representative shall, not later than 30 days after the date on which the President publishes the notice of review and request for public comments under paragraph (1)—

(A) hold a public hearing on such review and request for public comments; and

(B) publish in the Federal Register, before such hearing is held, notice of—

(i) the time and place of such hearing; and

(ii) the time and place at which such public comments will be accepted.

(3) PETITION PROCESS.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this subsection, the President shall establish a process to allow any interested person, at any time, to file a petition with the Office of the United States Trade Representative with respect to the compliance of any country listed in section 107 of the African Growth and Op-

portunity Act with the eligibility requirements set forth in section 104 of such Act and the eligibility criteria set forth in section 502 of this Act.

(B) USE OF PETITIONS.—The President shall take into account all petitions filed pursuant to subparagraph (A) in making determinations of compliance under subsections (a)(3)(A) and (c) and in preparing any reports required by this title as such reports apply with respect to beneficiary sub-Saharan African countries.

(4) OUT-OF-CYCLE REVIEWS.—

(A) IN GENERAL.—The President may, at any time, initiate an out-of-cycle review of whether a beneficiary sub-Saharan African country is making continual progress in meeting the requirements described in paragraph (1). The President shall give due consideration to petitions received under paragraph (3) in determining whether to initiate an out-of-cycle review under this subparagraph.

(B) CONGRESSIONAL NOTIFICATION.—Before initiating an out-of-cycle review under subparagraph (A), the President shall notify and consult with Congress.

(C) CONSEQUENCES OF REVIEW.—If, pursuant to an out-of-cycle review conducted under subparagraph (A), the President determines that a beneficiary sub-Saharan African country does not meet the requirements set forth in section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)), the President shall, subject to the requirements of subsections (a)(3)(B) and (c)(2), terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country.

(D) REPORTS.—After each out-of-cycle review conducted under subparagraph (A) with respect to a country, the President shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the review and any determination of the President to terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country under subparagraph (C).

(E) SENSE OF CONGRESS.—Recognizing that concerns have been raised about the compliance with section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)) of some beneficiary sub-Saharan African countries, the President should initiate an out-of-cycle review under subparagraph (A) with respect to South Africa, the most developed of the beneficiary sub-Saharan African countries, and other beneficiary countries as appropriate, not later than 30 days after the date of the enactment of this subsection.

⟦(c)⟧ *(e)* BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title—

(1) the terms "beneficiary sub-Saharan African country" and "beneficiary sub-Saharan African countries" mean a country or

countries listed in section 107 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.

(2) the term "former beneficiary sub-Saharan African country" means a country that, after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

SEC. 506B. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

In the case of a beneficiary sub-Saharan African country, as defined in section 506A(c), duty-free treatment provided under this title shall remain in effect through 【September 30, 2015】 *September 30, 2025*.

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AFRICAN GROWTH AND OPPORTUNITY ACT

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TITLE I—EXTENSION OF CERTAIN TRADE BENEFITS TO SUB-SAHARAN AFRICA

Subtitle A—Trade Policy for Sub-Saharan Africa

* * * * * * *

SEC. 104. ELIGIBILITY REQUIREMENTS.

【(a) IN GENERAL.—】 The President is authorized to designate a sub-Saharan African country as an eligible sub-Saharan African country if the President determines that the country—

(1) has established, or is making continual progress toward establishing—

(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(C) the elimination of barriers to United States trade and investment, including by—

(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

(ii) the protection of intellectual property; and

(iii) the resolution of bilateral trade and investment disputes;

(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs;

(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(2) does not engage in activities that undermine United States national security or foreign policy interests; and

(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

[(b) CONTINUING COMPLIANCE.—If the President determines that an eligible sub-Saharan African country is not making continual progress in meeting the requirements described in subsection (a)(1), the President shall terminate the designation of the country made pursuant to subsection (a).]

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Subtitle B—Trade Benefits

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SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

(a) PREFERENTIAL TREATMENT.—Textile and apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country described in section 506A(c) of the Trade Act of 1974, shall enter the United States free of duty and free of any quantitative limitations in accordance with the provisions set forth in subsection (b), if the country has satisfied the requirements set forth in section 113.

(b) PRODUCTS COVERED.—Subject to subsection (c), the preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—

(A) entered under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(B) entered under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.

(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).

(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:

(A) LIMITATIONS ON BENEFITS.—

(i) IN GENERAL.—Preferential treatment under this paragraph shall be extended in the 1-year period beginning October 1, 2003, and in each of the ⟦11 succeeding⟧ *21 succeeding* 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter

equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term "applicable percentage" means—

(I) 4.747 percent for the 1-year period beginning October 1, 2003, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the 1-year period beginning October 1, 2007, the applicable percentage does not exceed 7 percent; and

(II) for each succeeding 1-year period until ⟦September 30, 2015⟧ *September 30, 2025*, not to exceed 7 percent.

(B) SURGE MECHANISM.—

(i) IMPORT MONITORING.—The Secretary of Commerce shall monitor imports of articles described in this paragraph on a monthly basis to determine if there has been a surge in imports of such articles. In order to permit public access to preliminary international trade data and to facilitate the early identification of potentially disruptive import surges, the Director of the Office of Management and Budget may grant an exception to the publication dates established for the release of data on United States international trade in covered articles, if the Director notifies Congress of the early release of the data.

(ii) DETERMINATION OF DAMAGE OR THREAT THEREOF.—Whenever the Secretary of Commerce determines, based on the data described in clause (i), or pursuant to a written request made by an interested party, that there has been a surge in imports of an article described in this paragraph from a beneficiary sub-Saharan African country, the Secretary shall determine whether such article from such country is being imported in such increased quantities as to cause serious damage, or threat thereof, to the domestic industry producing a like or directly competitive article. If the Secretary's determination is affirmative, the President shall suspend the duty-free treatment provided for such article under this paragraph. If the inquiry is initiated at the request of an interested party, the Secretary shall make the determination within 60 days after the date of the request.

(iii) FACTORS TO CONSIDER.—In determining whether a domestic industry has been seriously damaged, or is threatened with serious damage, the Secretary shall examine the effect of the imports on relevant economic indicators such as domestic production, sales, market share, capacity utilization, inventories, employment, profits, exports, prices, and investment.

(iv) PROCEDURE.—

(I) INITIATION.—The Secretary of Commerce shall initiate an inquiry within 10 days after re-

ceiving a written request and supporting information for an inquiry from an interested party. Notice of initiation of an inquiry shall be published in the Federal Register.

(II) PARTICIPATION BY INTERESTED PARTIES.—The Secretary of Commerce shall establish procedures to ensure participation in the inquiry by interested parties.

(III) NOTICE OF DETERMINATION.—The Secretary shall publish the determination described in clause (ii) in the Federal Register.

(IV) INFORMATION AVAILABLE.—If relevant information is not available on the record or any party withholds information that has been requested by the Secretary, the Secretary shall make the determination on the basis of the facts available. When the Secretary relies on information submitted in the inquiry as facts available, the Secretary shall, to the extent practicable, corroborate the information from independent sources that are reasonably available to the Secretary.

(v) INTERESTED PARTY.—For purposes of this subparagraph, the term "interested party" means any producer of a like or directly competitive article, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or sale in the United States of a like or directly competitive article, a trade or business association representing producers or sellers of like or directly competitive articles, producers engaged in the production of essential inputs for like or directly competitive articles, a certified union or group of workers which is representative of an industry engaged in the manufacture, production, or sale of essential inputs for the like or directly competitive article, or a trade or business association representing companies engaged in the manufacture, production, or sale of such essential inputs.

(4) SWEATERS KNIT-TO-SHAPE FROM CASHMERE OR MERINO WOOL.—

(A) CASHMERE.—Sweaters, in chief weight of cashmere, knit-to-shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the Harmonized Tariff Schedule of the United States.

(B) MERINO WOOL.—Sweaters, 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

(5) APPAREL ARTICLES WHOLLY ASSEMBLED FROM FABRIC OR YARN NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—

(A) IN GENERAL.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be

eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.

(B) ADDITIONAL APPAREL ARTICLES.—At the request of any interested party and subject to the following requirements, the President is authorized to proclaim the treatment provided under subparagraph (A) for yarns or fabrics not described in subparagraph (A) if—

(i) the President determines that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner;

(ii) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

(iii) within 60 calendar days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(I) the action proposed to be proclaimed and the reasons for such action; and

(II) the advice obtained under clause (ii);

(iv) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclauses (I) and (II) of clause (iii), has expired; and

(v) the President has consulted with such committees regarding the proposed action during the period referred to in clause (iii).

(C) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under subparagraph (A) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.

(6) HANDLOOMED, HANDMADE, FOLKLORE ARTICLES AND ETHNIC PRINTED FABRICS.—

(A) IN GENERAL.—A handloomed, handmade, folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this section, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric.

(B) REQUIREMENTS FOR ETHNIC PRINTED FABRIC.—Ethnic printed fabrics qualified under this paragraph are—

(i) fabrics containing a selvedge on both edges, having a width of less than 50 inches, classifiable under

subheading 5208.52.30 or 5208.52.40 of the Harmonized Tariff Schedule of the United States;

(ii) of the type that contains designs, symbols, and other characteristics of African prints—

(I) normally produced for and sold on the indigenous African market; and

(II) normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

(iii) printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and

(iv) fabrics formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African country from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.

(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).

(8) TEXTILE ARTICLES ORIGINATING ENTIRELY IN ONE OR MORE LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Textile and textile articles classifiable under chapters 50 through 60 or chapter 63 of the Harmonized Tariff Schedule of the United States that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.

(c) LESSER DEVELOPED COUNTRIES.—

(1) PREFERENTIAL TREATMENT OF PRODUCTS THROUGH [SEPTEMBER 30, 2015] *SEPTEMBER 30, 2025*.—

(A) PRODUCTS COVERED.—In addition to the products described in subsection (b) the preferential treatment described in subsection (a) shall apply through [September 30, 2015] *September 30, 2025*, to apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles

imported into the United States in the preceding 12-month period for which data are available.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term "applicable percentage" means—

(i) 2.9285 percent for the 1-year period beginning on October 1, 2005; and

(ii) 3.5 percent for the 1-year period beginning on October 1, 2006, and each 1-year period thereafter through ⟦September 30, 2015⟧ *September 30, 2025*.

(2) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(3)(B) applies to apparel articles eligible for preferential treatment under this subsection to the same extent as that subsection applies to apparel articles eligible for preferential treatment under subsection (b)(3).

(3) DEFINITION.—In this subsection, the term "lesser developed beneficiary sub-Saharan African country" means—

(A) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

(B) Botswana;

(C) Namibia; and

(D) Mauritius.

(d) TREATMENT OF QUOTAS ON TEXTILE AND APPAREL IMPORTS FROM KENYA AND MAURITIUS.—The President shall eliminate the existing quotas on textile and apparel articles imported into the United States—

(1) from Kenya within 30 days after that country adopts an effective visa system to prevent unlawful transshipment of textile and apparel articles and the use of counterfeit documents relating to the importation of the articles into the United States; and

(2) from Mauritius within 30 days after that country adopts such a visa system.

The Customs Service shall provide the necessary technical assistance to Kenya and Mauritius in the development and implementation of the visa systems.

(e) SPECIAL RULES.—

(1) FINDINGS AND TRIMMINGS.—

(A) GENERAL RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if the value of such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled article. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, and zippers, including zipper tapes and labels. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and used in the production of brassieres.

(B) CERTAIN INTERLININGS.—

(i) GENERAL RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article con-

tains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

(ii) INTERLININGS DESCRIBED.—Interlinings eligible for the treatment described in clause (i) include only a chest type plate, a "hymo" piece, or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(iii) TERMINATION OF TREATMENT.—The treatment described in this subparagraph shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

(C) EXCEPTION.—In the case of an article described in subsection (b)(2), sewing thread shall not be treated as findings or trimmings under subparagraph (A).

(2) DE MINIMIS RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries if the total weight of all such fibers and yarns is not more than 10 percent of the total weight of the article.

(3) CERTAIN COMPONENTS.—An article otherwise eligible for preferential treatment under this section will not be ineligible for such treatment because the article contains—

(A) any collars or cuffs (cut or knit-to-shape),

(B) drawstrings,

(C) shoulder pads or other padding,

(D) waistbands,

(E) belt attached to the article,

(F) straps containing elastic, or

(G) elbow patches,

that do not meet the requirements set forth in subsections (b) and (c), regardless of the country of origin of the item referred to in the applicable subparagraph of this paragraph.

(f) DEFINITIONS.—In this section and section 113:

(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term "Agreement on Textiles and Clothing" means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms "beneficiary sub-Saharan African country" and "beneficiary sub-Saharan African countries" have the same meaning as such terms have under section 506A(c) of the Trade Act of 1974.

(3) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(4) FORMER SUB-SAHARAN AFRICAN COUNTRY.—The term "former sub-Saharan African country" means a country that, after being designated as a beneficiary sub-Saharan African country under this Act, ceased to be designated as such a bene-

ficiary sub-Saharan country by reason of its entering into a free trade agreement with the United States.

(5) ENTER; ENTERED.—The terms "enter" and "entered" refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

(g) EFFECTIVE DATE.—This section takes effect on October 1, 2000, and shall remain in effect through [September 30, 2015] *September 30, 2025*.

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CARIBBEAN BASIN ECONOMIC RECOVERY ACT

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TITLE II—CARIBBEAN BASIN INITIATIVE

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SUBTITLE A—DUTY-FREE TREATMENT

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SEC. 213A. SPECIAL RULES FOR HAITI.

(a) DEFINITIONS.—In this section:

(1) INITIAL APPLICABLE 1-YEAR PERIOD.—The term "initial applicable 1-year period" means the 1-year period beginning on December 20, 2006.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—.—The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) freedom of association;

(B) the effective recognition of the right to bargain collectively;

(C) the elimination of all forms of compulsory or forced labor;

(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(E) the elimination of discrimination in respect of employment and occupation.

(4) ENTER; ENTRY.—The terms "enter" and "entry" refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

(5) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are "imported directly from Haiti or the Dominican Republic" if—

(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the in-

voices, bills of lading, and other shipping documents specify the United States as the final destination; or

(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

(I) remain under the control of the customs authority in the intermediate country;

(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

(6) KNIT-TO-SHAPE.—A good is "knit-to-shape" if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is "knit-to-shape."

(7) TAICNAR PROGRAM.—The term "TAICNAR Program" means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).

(8) WHOLLY ASSEMBLED.—A good is "wholly assembled" in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is "wholly assembled" in Haiti.

(b) APPAREL AND OTHER TEXTILE ARTICLES.—

(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during the initial applicable 1-year period and any 1-year period thereafter, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).

(B) APPAREL ARTICLES DESCRIBED.—

(i) IN GENERAL.—In the initial applicable 1-year period and any 1-year period thereafter, apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, only if, for each entry in that 1-year period, the sum of—

(I) the cost or value of the materials produced in Haiti or one or more countries described in clause (iii), or any combination thereof, plus

(II) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or one or more countries described in clause (iii), or any combination thereof,

is not less than the applicable percentage (as defined in clause (v)(I)) of the declared customs value of such apparel articles.

(ii) DEDUCTIONS.—In calculating cost or value under clause (i)(I), there shall be deducted the cost or value of—

(I) any foreign materials that are used in the production of the apparel articles in Haiti; and

(II) any foreign materials that are used in the production of the materials described in clause (i)(I).

(iii) COUNTRIES DESCRIBED.—The countries referred to in clause (i) are the following:

(I) The United States.

(II) Any country that is a party to a free trade agreement with the United States that is in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, or that enters into force thereafter.

(III) Any country designated as a beneficiary country under section 213(b)(5)(B) of this Act.

(IV) Any country designated as a beneficiary country under section 506A(a)(1) of the Trade Act of 1974 (19 U.S.C. 2466a(a)(1)), if a finding has been made by the President or the President's designee, and published in the Federal Register, that the country has satisfied the requirements of section 113 of the African Growth and Opportunity Act (19 U.S.C. 3722).

(V) Any country designated as a beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)).

(iv) ANNUAL AGGREGATION.—

(I) INITIAL APPLICABLE 1-YEAR PERIOD.—In the initial applicable 1-year period, the requirements under clause (i) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the initial applicable 1-year period by aggregating—

(aa) the cost or value of materials under subclause (I) of clause (i), and

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the initial applicable 1-year period.

(II) OTHER 1-YEAR PERIODS.—In any 1-year period after the initial applicable 1-year period, the requirements under clause (i) relating to applica-

ble percentage may also be met for articles of a producer or an entity controlling production that enter during the 1-year period by aggregating—

(aa) the cost or value of materials under subclause (I) of clause (i), and

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding 1-year period.

(III) DEDUCTIONS.—In calculating cost or value under subclause (I)(aa) or (II)(aa), there shall be deducted the cost or value of—

(aa) any foreign materials that are used in the production of the apparel articles in Haiti; and

(bb) any foreign materials that are used in the production of the materials described in subclause (I)(aa) or (II)(aa) (as the case may be).

(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the “General” column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.

(v) DEFINITIONS.—In this paragraph:

(I) APPLICABLE PERCENTAGE.—The term “applicable percentage” means—

(aa) 50 percent or more during the initial applicable 1-year period and the succeeding 8 1-year periods;

(bb) 55 percent or more during the 1-year period beginning on December 20, 2015, and the 1-year period beginning on December 20, 2016; and

[(cc) 60 percent or more during the 1-year period beginning on December 20, 2017.]

(cc) 60 percent or more during the 1-year period beginning on December 20, 2017, and each of the 7 succeeding 1-year periods.

(II) FOREIGN MATERIAL.—The term “foreign material” means a material produced in a country other than Haiti or any country described in clause (iii).

(vi) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—

(I) IN GENERAL.—U.S. Customs and Border Protection of the Department of Homeland Security

shall develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in clauses (i) and (iv).

(II) NONCOMPLIANCE.—If U.S. Customs and Border Protection finds that a producer or an entity controlling production has not satisfied such requirements in the initial applicable 1-year period or any 1-year period thereafter, either for individual entries entered pursuant to clause (i) or for entries entered in aggregate pursuant to clause (iv), then apparel articles described in clause (i) of that producer or entity shall be ineligible for preferential treatment under paragraph (1) during any succeeding 1-year period until—

(aa) the cost or value of materials under subclause (I) of clause (i), plus

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of that producer or entity controlling production, is not less than the applicable percentage under clause (v)(I), plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding 1-year period.

(III) RETROACTIVE APPLICATION OF DUTY-FREE TREATMENT.—If—

(aa) a producer or an entity controlling production is ineligible for preferential treatment under subparagraph (A) in the initial applicable 1-year period or any 1-year period thereafter because that producer or entity controlling production did not satisfy the requirements of clause (i) or (iv), and

(bb) that producer or entity controlling production satisfies the requirements of subclause (II) of this clause in that 1-year period,

then, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with U.S. Customs and Border Protection before the 90th day after U.S. Customs and Border Protection determines that item (bb) applies, the entry of any articles—

(AA) that was made during that 1-year period, and

(BB) with respect to which there would have been preferential treatment under subparagraph (A) if the producer or entity controlling production had satisfied the requirements in clause (i) or (iv) (as the case may be),

shall be liquidated or reliquidated as though such preferential treatment under subparagraph (A) applied to such entry.

(vii) FABRICS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—

(I) IN GENERAL.—For purposes of determining the applicable percentage under clause (i) or (iv), there may be included in that percentage—

(aa) the cost of fabrics or yarns to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA; and

(bb) the cost of fabrics or yarns that are designated as not being available in commercial quantities for purposes of—

(AA) section 213(b)(2)(A)(v) of this Act,

(BB) section 112(b)(5) of the African Growth and Opportunity Act,

(CC) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act, or

(DD) 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 that enters into force with respect to the United States,

without regard to the source of the fabrics or yarns.

(II) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

(aa) any fabric or yarn described in subclause (I)(aa) was determined to be eligible for preferential treatment, or

(bb) any fabric or yarn described in subclause (I)(bb) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(C) QUANTITATIVE LIMITATIONS.—The preferential treatment described in subparagraph (A) shall be extended, during each of the 1-year periods set forth in the following table, to not more than the corresponding percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available:

During:	**the corresponding percentage is:**
the initial applicable 1-year period	1 percent.

each of the succeeding 11 1-year periods .... 1.25 percent.

No preferential treatment shall be provided under subparagraph (A) after [December 19, 2018] *December 19, 2025*.

(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).

(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) LIMITATION.—Except as provided in paragraph (2A), the preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the [11 succeeding 1-year periods] *16 succeeding 1-year periods*, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

(bb) All white singlets, without pockets, trim, or embroidery.

(cc) Other T-shirts, but not including thermal undershirts.

(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

(aa) Sweatshirts.

(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

(iii) LIMITATION.—Except as provided in paragraph (2A), the preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the [11 succeeding 1-year periods] *16 succeeding 1-year periods*, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).

(2A) SPECIAL RULE FOR CERTAIN WOVEN ARTICLES AND CERTAIN KNIT ARTICLES ENTERED DURING FISCAL YEAR 2010 AND SUCCEEDING 1-YEAR PERIODS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and subject to subparagraph (D), if 52,000,000 square meter equivalents of apparel articles described in paragraph (2)(A)(i) or (2)(B)(i) enter the United States during the 1-year period beginning October 1, 2009, or any of the succeeding 1-year periods, the President shall extend the preferential treatment described in paragraph (2)(A)(i) or (2)(B)(i) (as the case may be) to not more than 200,000,000 square meter equivalents of apparel articles described in paragraph (2)(A)(i) or (2)(B)(i) (as the case may be) during that 1-year period, and shall publish notice of the extension in the Federal Register.

(B) EXCEPTION FOR CERTAIN WOVEN ARTICLES.—

(i) IN GENERAL.—In the case of apparel articles described in clause (ii), subparagraph (A) shall be applied by substituting "70,000,000" for "200,000,000".

(ii) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles described in paragraph (2)(A)(i) that are the following:

(I) CATEGORY 347.—Apparel articles in category 347 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6203.19.1020	6203.42.4011	6203.42.4061
6203.19.9020	6203.42.4016	6203.49.8020
6203.22.3020	6203.42.4026	6210.40.9033
6203.22.3030	6203.42.4036	6211.20.1520
6203.42.4003	6203.42.4046	6211.20.3810
6203.42.4006	6203.42.4051	6211.32.0040

(II) CATEGORY 348.—Apparel articles in category 348 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6204.12.0030	6204.62.4011	6204.69.9010
6204.19.8030	6204.62.4021	6210.50.9060
6204.22.3040	6204.62.4031	6211.20.1550
6204.22.3050	6204.62.4041	6211.20.6810
6204.29.4034	6204.62.4051	6211.42.0030
6204.62.3000	6204.62.4056	6217.90.9050
6204.62.4003	6204.62.4066	
6204.62.4006	6204.69.6010	

(III) CATEGORY 647.—Apparel articles in category 647 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6203.23.0060	6203.43.4020	6203.49.8030
6203.23.0070	6203.43.4030	6210.40.5031
6203.29.2030	6203.43.4040	6210.40.5039
6203.29.2035	6203.49.1500	6211.20.1525
6203.43.2500	6203.49.2015	6211.20.3820
6203.43.3510	6203.49.2030	6211.33.0030
6203.43.3590	6203.49.2045	
6203.43.4010	6203.49.2060	

(IV) CATEGORY 648.—Apparel articles in category 648 that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph):

6204.23.0040	6204.63.3510	6204.69.6030
6204.23.0045	6204.63.3530	6204.69.9030

6204.29.2020	6204.63.3532	6210.50.5031
6204.29.2025	6204.63.3540	6210.50.5039
6204.29.4038	6204.69.2510	6211.20.1555
6204.63.2000	6204.69.2530	6211.20.6820
6204.63.3010	6204.69.2540	6211.43.0040
6204.63.3090	6204.69.2560	6217.90.9060

(C) EXCEPTION FOR CERTAIN KNIT ARTICLES.—

(i) IN GENERAL.—In the case of apparel articles described in clause (ii), subparagraph (A) shall be applied by substituting "85,000,000" for "200,000,000".

(ii) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles described in paragraph (2)(B)(i) that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this paragraph), other than shirts with plackets and pointed collars:

6105.10.0010	6109.10.0040	6110.30.3053
6109.10.0018	6109.10.0045	6110.30.3059
6109.10.0027	6110.20.2079	

(D) VERIFICATION WITH RESPECT TO TRANSSHIPMENT FOR CERTAIN APPAREL ARTICLES.—

(i) IN GENERAL.—Not later than April 1, July 1, October 1, and January 1 of each year, the Commissioner responsible for United States Customs and Border Protection shall verify that apparel articles imported into the United States under this paragraph are not being unlawfully transshipped (within the meaning of subsection (f)) into the United States.

(ii) REPORT TO PRESIDENT.—If the Commissioner determines pursuant to clause (i) that apparel articles imported into the United States under this paragraph are being unlawfully transshipped into the United States, the Commissioner shall report that determination to the President.

(iii) AUTHORITY TO REDUCE QUANTITATIVE LIMITATION.—If, in any 1-year period with respect to which the President extends preferential treatment as described in this paragraph, the Commissioner reports to the President pursuant to clause (ii) regarding unlawful transshipments, the President—

(I) may modify the quantitative limitation under this paragraph as the President considers appropriate to account for such transshipments; and

(II) if the President modifies the limitation under subclause (I), shall publish notice of the modification in the Federal Register.

(E) CATEGORY DEFINED.—In this paragraph, the term "category" means the number assigned under the U.S. Textile and Apparel Category System of the Office of Textiles and Apparel of the Department of Commerce, as listed in the HTS under the applicable heading or subheading (as in effect on the day before the date of the enactment of this paragraph).

(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference in such chapter rules to "6104.12.00" shall be deemed to be a reference to "6104.19.60".

(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.

(F) CERTAIN OTHER APPAREL ARTICLES.—

(i) IN GENERAL.—Any of the apparel articles described in clause (ii) that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) ARTICLES DESCRIBED.—Apparel articles described in this clause are apparel articles in the following category numbers that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this subparagraph):

Category Number	HTS Statistical Reporting Number
334	6101.90.9010 6112.11.0010 6103.22.0010 6113.00.9015
335	6104.22.0010 6104.29.2010 6112.11.0020
336	6104.49.9010
338	6103.22.0050 6105.90.8010 6112.11.0030
339	6104.22.0060

	6104.29.2049 6106.90.2510 6106.90.3010 6110.20.1031 6110.20.1033 6112.11.0040
342	6104.22.0030 6104.29.2022 6104.52.0010 6104.52.0020 6104.59.8010
350	6107.91.0040 6107.91.0090
351	6107.21.0010 6107.21.0020 6107.91.0030 6108.31.0010 6108.31.0020
433	6103.23.0007 6103.29.0520 6103.31.0000 6103.33.1000 6103.39.8020
434	6101.30.1500 6101.90.0500 6101.90.9020 6103.23.0005 6103.29.0510
435	6102.30.1000 6102.90.9010 6104.23.0010 6104.29.0510 6104.29.2012 6104.33.1000 6104.39.2020
438	6103.23.0025 6103.29.0550 6104.23.0020 6104.29.0560 6104.29.2051

	6105.90.1000 6105.90.8020 6106.20.1020 6106.90.1010 6106.90.1020 6106.90.2520 6106.90.3020 6110.11.0070 6110.12.2070 6110.12.2080 6110.19.0070 6110.19.0080 6110.30.1550 6110.30.1560
633	6103.23.0037 6103.29.1015 6103.33.2000 6103.39.1000 6103.39.8030
634	6101.30.1000 6101.90.9030 6103.23.0036 6103.29.1010 6112.12.0010 6112.19.1010 6112.20.1010 6112.20.1030 6113.00.9025
635	6102.30.0500 6102.90.9015 6104.23.0026 6104.29.1010 6104.29.2014 6104.39.2030 6112.12.0020 6112.19.1020 6112.20.1020 6112.20.1040 6113.00.9030
636	6104.49.9030 6104.44.2020

638	6103.23.0075 6103.29.1050 6105.90.8030 6110.30.1050 6110.30.2051 6110.30.2053 6112.12.0030 6112.19.1030
639	6104.23.0036 6104.29.1050 6104.29.2055 6106.90.2530 6106.90.3030 6110.30.1060 6110.30.2061 6110.30.2063 6112.12.0040 6112.19.1040
651	6107.22.0010 6107.22.0015 6107.22.0025 6107.99.1030 6108.32.0015

(iii) CATEGORY DEFINED.—In this subparagraph, the term "category" has the meaning given that term in paragraph (2A)(E) of this subsection.

(G) MADE-UP TEXTILE ARTICLES.—

(i) IN GENERAL.—Any of the made-up textile articles described in clauses (ii) and (iii) that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) ARTICLES DESCRIBED.—Made-up textile articles described in this clause are articles in the following category numbers that fall within the following statistical reporting numbers of the HTS (as in effect on the day before the date of the enactment of this subparagraph):

Category Number	**HTS Statistical Reporting Number**

363	6302.60.0020 6302.91.0015 6302.91.0035 6307.90.8940
369	6304.91.0020 6304.92.0000 6302.60.0010 6302.60.0030 6302.91.0005 6302.91.0050 6307.90.8910 6307.90.8945 5701.90.2020 5702.39.2010 5702.50.5600 5702.99.0500 5702.99.1500 5705.00.2020 5807.10.0510 5807.90.0510 6307.90.3010 6301.30.0010 6305.20.0000 6307.10.1020 6307.10.1090 6406.10.7700 9404.90.1000 9404.90.9505 6301.30.0020 6302.91.0045
465	5701.10.9000 5702.50.2000 5702.50.4000 5702.91.3000 5702.91.4000 5703.10.2000 5703.10.8000 5704.10.0010 5705.00.2005 5705.00.2015 5702.31.1000 5702.31.2000
469	6304.19.3040

	6304.91.0050 6304.99.1500 6304.99.6010 5601.29.0020 6302.39.0010 6406.10.9020
665	5701.90.1030 5701.90.2030 5702.32.1000 5702.32.2000 5702.42.2090 5702.50.5200 5702.92.1000 5702.92.9000 5703.20.1000 5703.30.2000 5703.30.8030 5703.30.8080 5704.10.0090 5705.00.2030 5703.20.2010 5703.20.2090
666	6304.11.2000 6304.91.0040 6304.93.0000 6304.99.6020 6301.40.0010 6301.40.0020 6301.90.0010
669	5601.10.2000 5601.22.0090 5807.10.0520 5807.90.0520 6307.90.3020 6305.32.0010 6305.32.0020 6305.32.0050 6305.32.0060 6305.39.0000 6406.10.9040 6308.00.0020
899	6304.11.3000

	6304.19.3060 6304.91.0070 6304.99.3500 6304.99.6040 5601.29.0090 6301.90.0030 6305.90.0000 6406.10.9060
900	5601.29.0010 5701.90.2010 6301.90.0020

(iii) OTHER ARTICLES DESCRIBED.—Made-up textile articles described in this clause are articles that fall within statistical reporting number 6406.10.9090 of the HTS (as in effect on the day before the date of the enactment of this subparagraph).

(iv) CATEGORY DEFINED.—In this subparagraph, the term "category" has the meaning given that term in paragraph (2A)(E) of this subsection.

(4) EARNED IMPORT ALLOWANCE RULE.—

(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, 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 such apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, 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.—

(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

(I) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that

it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (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 shall be deposited.

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

(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

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

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

(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or (IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

(VI) The program under this subparagraph 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 subparagraph (A)(i).

(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional

requirements to carry out this subparagraph. Such additional requirements may include—

(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term "qualifying woven fabric" means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term "qualifying knit fabric" means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph (1)(B)(iii), from yarns wholly formed in the United States, except that—

(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

(C) ENFORCEMENT PROVISIONS.—

(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code.

(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).

(5) SHORT SUPPLY PROVISION.—

(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

(I) section 213(b)(2)(A)(v) of this Act;

(II) section 112(b)(5) of the African Growth and Opportunity Act;

(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

(IV) 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.

(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.

(c) SPECIAL RULE FOR CERTAIN WIRE HARNESS AUTOMOTIVE COMPONENTS.—

(1) IN GENERAL.—Any wire harness automotive component that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States shall enter the United States free of duty, during the 10-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, if Haiti has met the requirements of subsection (d) and if the sum of—

(A) the cost or value of the materials produced in Haiti or one or more countries described in subsection (b)(2)(C), or any combination thereof, plus

(B) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or the United States, or both,

is not less than 50 percent of the declared customs value of such wire harness automotive component.

(2) WIRE HARNESS AUTOMOTIVE COMPONENT.—For purposes of this subsection, the term "wire harness automotive component" means any article provided for in subheading 8544.30.00 of the HTS, as in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

(d) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti—

(A) has established, or is making continual progress toward establishing—

(i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(iii) the elimination of barriers to United States trade and investment, including by—

(I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

(II) the protection of intellectual property; and

(III) the resolution of bilateral trade and investment disputes;

(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

(v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

(vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(B) does not engage in activities that undermine United States national security or foreign policy interests; and

(C) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

(2) TIME LIMIT FOR DETERMINATION.—The President shall determine whether Haiti meets the requirements of paragraph (1) not later than 90 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

(3) CONTINUING COMPLIANCE.—If the President determines that Haiti is not making continual progress in meeting the requirements described in paragraph (1)(A), the President shall terminate the preferential treatment under this section.

(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).

(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—

(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps.

(C) CONTINUING COMPLIANCE.—

(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

(2) LABOR OMBUDSMAN.—

(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

(i) reports directly to the President of Haiti;

(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

(iii) is vested with the authority to perform the functions described in subparagraph (B).

(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

(i) developing and maintaining a registry of producers of articles for which duty-free treatment may

be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

(ii) to provide assistance to improve the capacity of the Government of Haiti—

(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

(i) compliance with core labor standards; and

(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring

acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

(I) conducting unannounced site visits to manufacturing facilities of the producer;

(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

(aa) the results of the assessment carried out under this clause; and

(bb) specific suggestions for remediating any such deficiencies;

(iv) assist the producer in remediating any deficiencies identified under clause (iii);

(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

(iii) For each producer listed under clause (ii)—

(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;

(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether

Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

(B) PRODUCER ELIGIBILITY.—

(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential treatment under subsection (b) to the articles of the producer.

(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

(5) REPORTS BY THE PRESIDENT.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.

(f) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

(1) IN GENERAL.—The preferential treatment under subsection (b)(1) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

(B) Haiti has enacted legislation or promulgated regulations that would permit U.S. Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

(C) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.

(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of such articles, including materials used in the production, for at least 5 years after the production or export (as the case may be).

(F) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

(2) DEFINITION OF TRANSSHIPMENT.—Transshipment within the meaning of this subsection has occurred when preferential treatment for a textile or apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under this section.

(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of "imported directly from Haiti or the Dominican Republic", articles described in subsection (b) that are shipped from the Dominican Republic, directly

or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be "imported directly from Haiti or the Dominican Republic" until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).

(g) REGULATIONS.—The President shall issue regulations to carry out this section not later than 180 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such regulations.

(h) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until ❲September 30, 2020❳ *September 30, 2025*.

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CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

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SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) For the arrival of a commercial truck, $5.

(3) For the arrival of each railroad car carrying passengers or commercial freight, $7.50.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), $5.

(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, $1.75.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

(8) For the arrival of a barge or other bulk carrier from Canada or Mexico, $100.

(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.21 percent ad valorem, unless adjusted under subparagraph (B).

(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) to an ad valorem rate (but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than $485 nor less than $21) to rates and amounts which would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during the fiscal year in which such costs are incurred.

(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under subsection (f) with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

(I) not later than 45 days after the date of the enactment of the Act providing full-year appropriations for the Customs Service for that fiscal year, publishes in the Federal Register a notice of intent to adjust the fee under this paragraph and the amount of such adjustment;

(II) provides a period of not less than 30 days following publication of the notice described in subclause (I) for public comment and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment and the methodology used to determine such adjustment;

(III) upon the expiration of the period provided under subclause (II), notifies such committees in writing regarding the final determination to adjust the fee, the amount of such adjustment, and the methodology used to determine such adjustment; and

(IV) upon the expiration of the 15-day period following the written notification described in subclause (III), submits for publication in the Federal Register notice of the final determination regarding the adjustment of the fee.

(iv) The 15-day period referred to in clause (iii)(IV) shall be computed by excluding—

(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

(v) An adjustment made under this subparagraph shall become effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication

of the notice described in clause (iii)(IV) and shall remain in effect until adjusted under this subparagraph.

(C) Any fee charged under this paragraph, whether or not adjusted under subparagraph (B), is subject to the limitations in subsection (b)(8)(A).

(10) For the processing of merchandise that is informally entered or released, other than at—

(A) a centralized hub facility,

(B) an express consignment carrier facility, or

(C) a small airport or other facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release, a fee of—

(i) $2 if the entry or release is automated and not prepared by customs personnel;

(ii) $6 if the entry or release is manual and not prepared by customs personnel; or

(iii) $9 if the entry or release, whether automated or manual, is prepared by customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), see subsection (b)(9).

(b) LIMITATIONS ON FEES.—(1)(A) Except as provided in subsection (a)(5)(B) of this section, no fee may be charged under subsection (a) of this section for customs services provided in connection with—

(i) the arrival of any passenger whose journey—

(I) originated in a territory or possession of the United States; or

(II) originated in the United States and was limited to territories and possessions of the United States;

(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

(iii) the arrival of a ferry, except for a ferry whose operations begin on or after August 1, 1999, and that operates south of 27 degrees latitude and east of 89 degrees longitude; or

(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(4)(A) No fee may be charged under subsection (a)(5) with respect to the arrival of any passenger—

(i) who is in transit to a destination outside the customs territory of the United States, and

(ii) for whom customs inspectional services are not provided.

(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.

(5) No fee may be charged under subsection (a)(1) for the arrival of—

(A) a vessel during a calendar year after a total of $5,955 in fees charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such vessel during such calendar year,

(B) any vessel which, at the time of the arrival, is being used solely as a tugboat, or

(C) any barge or other bulk carrier from Canada or Mexico.

(6) No fee may be charged under subsection (a)(8) for the arrival of a barge or other bulk carrier during a calendar year after a total of $1,500 in fees charged under paragraph (1) or (8) of subsection (a) has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such barge or other bulk carrier during such calendar year.

(7) No fee may be charged under paragraph (2), (3), or (4) of subsection (a) for the arrival of any—

(A) commercial truck,

(B) railroad car, or

(C) private vessel,

that is being transported, at the time of the arrival, by any vessel that is not a ferry.

(8)(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) for the formal entry or release of merchandise may not exceed $485 or be less than $25, unless adjusted pursuant to subsection (a)(9)(B).

(ii) A surcharge of $3 shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

(B) No fee may be charged under subsection (a) (9) or (10) for the processing of any article that is—

(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

(ii) a product of an insular possession of the United States, or

(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

(C) For purposes of applying subsection (a) (9) or (10)—

(i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—

(I) air passenger processing,

(II) export control, or

(III) international affairs, and

(ii) any reference to a manual formal or informal entry or release includes any entry or release filed by a broker or importer that requires the inputting of cargo selectivity data into the Automated Commercial System by customs personnel, except when—

(I) the broker or importer is certified as an ABI cargo release filer under the Automated Commercial System at any port within the United States, or

(II) the entry or release is filed at ports prior to the full implementation of the cargo selectivity data system by the Customs Service at such ports.

(D) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—

(i) be paid by the importer of record of the merchandise;

(ii) except as otherwise provided in this paragraph, be based on the value of the merchandise as determined under section 402 of the Tariff Act of 1930;

(iii) in the case of merchandise classified under subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States, be applied to the value of the foreign repairs or alterations to the merchandise;

(iv) in the case of merchandise classified under heading 9802.00.80 of such Schedule, be applied to the full value of the merchandise, less the cost or value of the component United States products;

(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise; and

(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).

With respect to merchandise that is classified under subheading 9802.00.60 or heading 9802.00.80 of such Schedule and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

(E) For purposes of subsection (a) (9) and (10), merchandise is entered or released, as the case may be, if the merchandise is—

(i) permitted or released under section 448(b) of the Tariff Act of 1930,

(ii) entered or released from customs custody under section 484(a)(1)(A) of the Tariff Act of 1930, or

(iii) withdrawn from warehouse for consumption.

(9)(A) With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is $2,000 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) In the case of a small airport or other facility—

(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

(I) $.66 per individual airway bill or bill of lading; and

(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.

(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than $.35 and not more than $1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) (I) or (II) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs

incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.

(C) For purposes of this paragraph:

(i) The terms "centralized hub facility" and "express consignment carrier facility" have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations. Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).

(ii) The term "small airport or other facility" means any airport or facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.

(10)(A) The fee charged under subsection (a) (9) or (10) with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) when the United States-Canada Free-Trade Agreement is in force shall be in accordance with article 403 of that Agreement.

(B) For goods qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act, the fee under subsection (a) (9) or (10)—

(i) may not be charged with respect to goods that qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement, for such time as Canada is a NAFTA country, as defined in section 2(4) of such Implementation Act; and

(ii) may not be increased after December 31, 1993, and may not be charged after June 29, 1999, with respect to goods that qualify to be marked as goods of Mexico pursuant to such Annex 311, for such time as Mexico is a NAFTA country.

Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(11) No fee may be charged under subsection (a) (9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.

(12) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202

of the United States-Chile Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(13) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Singapore Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(14) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Australia Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(16) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Bahrain Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(17) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(18) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Peru Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(19) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States–Korea Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(20) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States–Colombia Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(21) No fee may be charged under subsection (a)(9) or (10) with respect to goods that qualify as originating goods under section 203

of the United States–Panama Trade Promotion Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "ferry" means any vessel which is being used—

(A) to provide transportation only between places that are no more than 300 miles apart, and

(B) to transport only—

(i) passengers, or

(ii) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

(2) The term "arrival" means arrival at a port of entry in the customs territory of the United States.

(3) The term "customs territory of the United States" has the meaning given to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(4) The term "customs broker permit" means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(5) The term "barge or other bulk carrier" means any vessel which—

(A) is not self-propelled, or

(B) transports fungible goods that are not packaged in any form.

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(4)(A) Notice of the date on which payment of the fee imposed by subsection (a)(7) is due shall be published by the Secretary of the Treasury in the Federal Register by no later than the date that is 60 days before such due date.

(B) A customs broker permit may be revoked or suspended for nonpayment of the fee imposed by subsection (a)(7) only if notice

of the date on which payment of such fee is due was published in the Federal Register at least 60 days before such due date.

(C) The customs broker's license issued under section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) may not be revoked or suspended merely by reason of nonpayment of the fee imposed under subsection (a)(7).

(e) PROVISION OF CUSTOMS SERVICES.—

(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights at customs serviced airports when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(2)(A) This subsection shall not apply with respect to any airport to which section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) applies.

(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.

(3) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law—

(A) the customs services required to be provided to passengers upon arrival in the United States shall be adequately provided in connection with scheduled airline flights when needed at places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services, and

(B) other than the fees imposed under subsection (a), the airlines and airline passengers shall not be required to reimburse the Secretary of the Treasury for the costs of providing overtime customs inspectional services at such places.

(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

(5) For purposes of this subsection, customs services shall be treated as being "adequately provided" if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

(A) the unavoidability of weather, mechanical, and other delays;

(B) the necessity for prompt and efficient passenger and baggage clearance;

(C) the perishability of cargo;

(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

(F) the need for specific enforcement checks.

(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

(A) for any—

(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

(C) in connection with—

(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).

(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the "Customs User Fee Account". Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except—

(A) the portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations, and

(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (4).

(2) Except as otherwise provided in this subsection, all funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting customs revenue functions as defined in section 415 of the Homeland Security Act of 2002 (other than functions performed by the Office of International Affairs referred to in section 415(8) of that Act), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be avail-

able, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) (other than the fees under subsection (a) (9) and (10) and the excess fees determined by the Secretary under paragraph (4)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

(i) in—

(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,

(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I),

(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

(V) paying foreign language proficiency awards under section 13812(b) of the Omnibus Budget Reconciliation Act of 1993,

(ii) to the extent funds remain available after making reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection (a) (distributed on a basis proportionate to the fees collected under paragraphs (1) through (8) of subsection (a), and

(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.

The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i). Funds described in clause (ii) shall only be available to reimburse costs in excess of the

highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

(B) Reimbursement of appropriations under this paragraph—

(i) shall be subject to apportionment or similar administrative practices;

(ii) shall be made at least quarterly; and

(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to reimburse costs described in subparagraph (A)(i) shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that $30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A) (i) and (ii), shall be used for—

(I) the costs of providing the services described in subparagraph (A)(i), and

(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to inspectional services under section 5 of the Act of February 13, 1911, as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13812(a)(1) of such Act of 1993, plus the actual cost that is incurred during that fiscal year for foreign language proficiency awards under section 13812(b) of such Act of 1993,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).

(D) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees col-

lected under subsection (a), to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).

(4)(A) There is created within the general fund of the Treasury a separate account that shall be known as the "Customs Commercial and Homeland Security Automation Account". In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.

(5) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.

(g) REGULATIONS AND ENFORCEMENT.—(1) The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section. Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a)(5) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(2) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

(j) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

(3)(A) Fees may not be charged under paragraphs (9) and (10) of subsection (a) after ⟦September 30, 2024⟧ *July 7, 2025*.

(B)(i) Subject to clause (ii), Fees may not be charged under paragraphs (1) through (8) of subsection (a) after September 30, 2024.

(ii) In fiscal year 2006 and in each succeeding fiscal year for which fees under paragraphs (1) through (8) of subsection (a) are authorized—

(I) the Secretary of the Treasury shall charge fees under each such paragraph in amounts that are reasonably related to the costs of providing customs services in connection with the activity or item for which the fee is charged under such paragraph, except that in no case may the fee charged under any such paragraph exceed by more than 10 percent the amount otherwise prescribed by such paragraph;

(II) the amount of fees collected under such paragraphs may not exceed, in the aggregate, the amounts paid in that fiscal year for the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fees are charged under such paragraphs;

(III) a fee may not be collected under any such paragraph except to the extent such fee will be expended to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph; and

(IV) any fee collected under any such paragraph shall be available for expenditure only to pay the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activity or item for which the fee is charged under such paragraph.

(k) ADVISORY COMMITTEE.—The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a). The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number

and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.

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SECTION 503 OF THE UNITED STATES–KOREA FREE TRADE AGREEMENT IMPLEMENTATION ACT

SEC. 503. RATE FOR MERCHANDISE PROCESSING FEES.

For the period beginning on December 1, 2015, and ending on June 30, [2021] *2025*, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

(1) in subparagraph (A), by substituting “0.3464” for “0.21”; and

(2) in subparagraph (B)(i), by substituting “0.3464” for “0.21”.

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