

108TH CONGRESS
2D SESSION

S. 2261

AN ACT

To expand certain preferential trade treatment for Haiti.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haiti Economic Recov-
5 ery Opportunity Act of 2004”.

1 **SEC. 2. TRADE BENEFITS TO HAITI.**

2 (a) IN GENERAL.—The Caribbean Basin Economic
3 Recovery Act (19 U.S.C. 2701 et seq.) is amended by in-
4 serting after section 213 the following new section:

5 **“SEC. 213A. SPECIAL RULE FOR HAITI.**

6 “(a) IN GENERAL.—In addition to any other pref-
7 erential treatment under this Act, beginning on October
8 1, 2003, and in each of the 7 succeeding 1-year periods,
9 apparel articles described in subsection (b) that are im-
10 ported directly into the customs territory of the United
11 States from Haiti shall enter the United States free of
12 duty, subject to the limitations described in subsections
13 (b) and (c), if Haiti has satisfied the requirements and
14 conditions set forth in subsections (d) and (e).

15 “(b) APPAREL ARTICLES DESCRIBED.—Apparel arti-
16 cles described in this subsection are apparel articles that
17 are wholly assembled or knit-to-shape in Haiti from any
18 combination of fabrics, fabric components, components
19 knit-to-shape, and yarns without regard to the country of
20 origin of the fabrics, components, or yarns.

21 “(c) PREFERENTIAL TREATMENT.—The preferential
22 treatment described in subsection (a), shall be extended—

23 “(1) during the 12-month period beginning on
24 October 1, 2003, to a quantity of apparel articles
25 that is equal to 1.5 percent of the aggregate square
26 meter equivalents of all apparel articles imported

1 into the United States during the 12-month period
2 beginning October 1, 2002; and

3 “(2) during the 12-month period beginning on
4 October 1 of each succeeding year, to a quantity of
5 apparel articles that is equal to the product of—

6 “(A) the percentage applicable during the
7 previous 12-month period plus 0.5 percent (but
8 not over 3.5 percent); and

9 “(B) the aggregate square meter equiva-
10 lents of all apparel articles imported into the
11 United States during the 12-month period that
12 ends on September 30 of that year.

13 “(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be
14 eligible for preferential treatment under this section if the
15 President determines and certifies to Congress that Haiti
16 is meeting the conditions of subsection (e) and that
17 Haiti—

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

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

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

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

6 “(i) the provision of national treat-
 7 ment and measures to create an environ-
 8 ment conducive to domestic and foreign in-
 9 vestment;

10 “(ii) the protection of intellectual
 11 property; and

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

14 “(D) economic policies to reduce poverty,
 15 increase the availability of health care and edu-
 16 cational opportunities, expand physical infra-
 17 structure, promote the development of private
 18 enterprise, and encourage the formation of cap-
 19 ital markets through microcredit or other pro-
 20 grams;

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

1 “(F) protection of internationally recog-
 2 nized worker rights, including the right of asso-
 3 ciation, the right to organize and bargain collec-
 4 tively, a prohibition on the use of any form of
 5 forced or compulsory labor, a minimum age for
 6 the employment of children, and acceptable con-
 7 ditions of work with respect to minimum wages,
 8 hours of work, and occupational safety and
 9 health;

10 “(2) does not engage in activities that under-
 11 mine United States national security or foreign pol-
 12 icy interests; and

13 “(3) does not engage in gross violations of
 14 internationally recognized human rights or provide
 15 support for acts of international terrorism and co-
 16 operates in international efforts to eliminate human
 17 rights violations and terrorist activities.

18 “(e) CONDITIONS REGARDING ENFORCEMENT OF
 19 CIRCUMVENTION.—

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

24 “(A) Haiti has adopted an effective visa
 25 system, domestic laws, and enforcement proce-

1 dures applicable to articles described in sub-
2 section (b) to prevent unlawful transshipment
3 of the articles and the use of counterfeit docu-
4 ments relating to the importation of the articles
5 into the United States.

6 “(B) Haiti has enacted legislation or pro-
7 mulgated regulations that would permit the Bu-
8 reau of Customs and Border Protection
9 verification teams to have the access necessary
10 to investigate thoroughly allegations of trans-
11 shipment through such country.

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

18 “(D) Haiti agrees to cooperate fully with
19 the United States to address and take action
20 necessary to prevent circumvention.

21 “(E) Haiti agrees to require all producers
22 and exporters of articles described in subsection
23 (b) in that country to maintain complete
24 records of the production and the export of the
25 articles, including materials used in the produc-

tion, for at least 2 years after the production or export (as the case may be).

“(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of 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) DEFINITIONS.—In this subsection:

“(A) CIRCUMVENTION.—The term ‘circumvention’ means any action involving the provision of a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the United States or Haiti relating to imports of textile and apparel goods, if such action results—

“(i) in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures; or

“(ii) in obtaining preferential tariff treatment.”.

1 “(B) TRANSSHIPMENT.—The term ‘trans-
 2 shipment’ has the meaning given such term
 3 under section 213(b)(2)(D)(iii).”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendment made by
 6 subsection (a) applies with respect to goods entered,
 7 or withdrawn from warehouse for consumption, on
 8 or after October 1, 2003.

9 (2) RETROACTIVE APPLICATION TO CERTAIN
 10 ENTRIES.—Notwithstanding section 514 of the Tar-
 11 iff Act of 1930 (19 U.S.C. 1514) or any other provi-
 12 sion of law, upon proper request filed with the
 13 United States Customs Service before the 90th day
 14 after the date of the enactment of this Act, any
 15 entry or withdrawal from warehouse for consump-
 16 tion, of any goods described in the amendment made
 17 by subsection (a)—

18 (A) that was made on or after October 1,
 19 2003, and before the date of the enactment of
 20 this Act, and

21 (B) with respect to which there would have
 22 been no duty if the amendment made by sub-
 23 section (a) applied to such entry or withdrawal,

- 1 shall be liquidated or reliquidated as though such
- 2 amendment applied to such entry or withdrawal.

Passed the Senate July 16, 2004.

Attest:

Secretary.

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