

109TH CONGRESS  
1ST SESSION

# S. 1307

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## AN ACT

To implement the Dominican Republic-Central America-  
United States Free Trade Agreement.

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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Dominican Republic-Central America-United States Free  
6       Trade Agreement Implementation Act”.

1           (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

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

- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Arbitration of claims.
- Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Additional duties on certain agricultural goods.
- Sec. 203. Rules of origin.
- Sec. 204. Customs user fees.
- Sec. 205. Retroactive application for certain liquidations and reliquidations of textile or apparel goods.
- Sec. 206. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 207. Reliquidation of entries.
- Sec. 208. Recordkeeping requirements.
- Sec. 209. Enforcement relating to trade in textile or apparel goods.
- Sec. 210. Regulations.

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

- Sec. 311. Commencing of action for relief.
- Sec. 312. Commission action on petition.
- Sec. 313. Provision of relief.
- Sec. 314. Termination of relief authority.
- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.

Sec. 327. Compensation authority.  
 Sec. 328. Confidential business information.

Subtitle C—Cases Under Title II of the Trade Act of 1974

Sec. 331. Findings and action on goods of CAFTA–DR countries.

TITLE IV—MISCELLANEOUS

Sec. 401. Eligible products.  
 Sec. 402. Modifications to the Caribbean Basin Economic Recovery Act.  
 Sec. 403. Periodic reports and meetings on labor obligations and labor capacity-  
 building provisions.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to approve and implement the Free Trade  
 4 Agreement between the United States, Costa Rica,  
 5 the Dominican Republic, El Salvador, Guatemala,  
 6 Honduras, and Nicaragua entered into under the au-  
 7 thority of section 2103(b) of the Bipartisan Trade  
 8 Promotion Authority Act of 2002 (19 U.S.C.  
 9 3803(b));

10 (2) to strengthen and develop economic rela-  
 11 tions between the United States, Costa Rica, the  
 12 Dominican Republic, El Salvador, Guatemala, Hon-  
 13 duras, and Nicaragua for their mutual benefit;

14 (3) to establish free trade between the United  
 15 States, Costa Rica, the Dominican Republic, El Sal-  
 16 vador, Guatemala, Honduras, and Nicaragua  
 17 through the reduction and elimination of barriers to  
 18 trade in goods and services and to investment; and

1           (4) to lay the foundation for further coopera-  
2           tion to expand and enhance the benefits of the  
3           Agreement.

4 **SEC. 3. DEFINITIONS.**

5           In this Act:

6           (1) **AGREEMENT.**—The term “Agreement”  
7           means the Dominican Republic-Central America-  
8           United States Free Trade Agreement approved by  
9           the Congress under section 101(a)(1).

10          (2) **CAFTA–DR COUNTRY.**—Except as pro-  
11          vided in section 203, the term “CAFTA–DR coun-  
12          try” means—

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

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

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

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

1 (E) Honduras, for such time as the Agree-  
 2 ment is in force between the United States and  
 3 Honduras; and

4 (F) Nicaragua, for such time as the Agree-  
 5 ment is in force between the United States and  
 6 Nicaragua.

7 (3) COMMISSION.—The term “Commission”  
 8 means the United States International Trade Com-  
 9 mission.

10 (4) HTS.—The term “HTS” means the Har-  
 11 monized Tariff Schedule of the United States.

12 (5) TEXTILE OR APPAREL GOOD.—The term  
 13 “textile or apparel good” means a good listed in the  
 14 Annex to the Agreement on Textiles and Clothing  
 15 referred to in section 101(d)(4) of the Uruguay  
 16 Round Agreements Act (19 U.S.C. 3511(d)(4)),  
 17 other than a good listed in Annex 3.29 of the Agree-  
 18 ment.

19 **TITLE I—APPROVAL OF, AND**  
 20 **GENERAL PROVISIONS RE-**  
 21 **LATING TO, THE AGREEMENT**

22 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**  
 23 **AGREEMENT.**

24 (a) APPROVAL OF AGREEMENT AND STATEMENT OF  
 25 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of

1 the Bipartisan Trade Promotion Authority Act of 2002  
 2 (19 U.S.C. 3805) and section 151 of the Trade Act of  
 3 1974 (19 U.S.C. 2191), the Congress approves—

4 (1) the Dominican Republic-Central America-  
 5 United States Free Trade Agreement entered into  
 6 on August 5, 2004, with the Governments of Costa  
 7 Rica, the Dominican Republic, El Salvador, Guate-  
 8 mala, Honduras, and Nicaragua, and submitted to  
 9 the Congress on \_\_\_\_, 2005; and

10 (2) the statement of administrative action pro-  
 11 posed to implement the Agreement that was sub-  
 12 mitted to the Congress on \_\_\_\_, 2005.

13 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE  
 14 AGREEMENT.—At such time as the President determines  
 15 that countries listed in subsection (a)(1) have taken meas-  
 16 ures necessary to comply with the provisions of the Agree-  
 17 ment that are to take effect on the date on which the  
 18 Agreement enters into force, the President is authorized  
 19 to provide for the Agreement to enter into force with re-  
 20 spect to those countries that provide for the Agreement  
 21 to enter into force for them.

22 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
 23 **STATES AND STATE LAW.**

24 (a) RELATIONSHIP OF AGREEMENT TO UNITED  
 25 STATES LAW.—

1           (1) UNITED STATES LAW TO PREVAIL IN CON-  
 2           FLICT.—No provision of the Agreement, nor the ap-  
 3           plication of any such provision to any person or cir-  
 4           cumstance, which is inconsistent with any law of the  
 5           United States shall have effect.

6           (2) CONSTRUCTION.—Nothing in this Act shall  
 7           be construed—

8                     (A) to amend or modify any law of the  
 9                     United States, or

10                    (B) to limit any authority conferred under  
 11                    any law of the United States,  
 12           unless specifically provided for in this Act.

13           (b) RELATIONSHIP OF AGREEMENT TO STATE  
 14           LAW.—

15           (1) LEGAL CHALLENGE.—No State law, or the  
 16           application thereof, may be declared invalid as to  
 17           any person or circumstance on the ground that the  
 18           provision or application is inconsistent with the  
 19           Agreement, except in an action brought by the  
 20           United States for the purpose of declaring such law  
 21           or application invalid.

22           (2) DEFINITION OF STATE LAW.—For purposes  
 23           of this subsection, the term “State law” includes—

24                     (A) any law of a political subdivision of a  
 25                     State; and

1 (B) any State law regulating or taxing the  
 2 business of insurance.

3 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-  
 4 VATE REMEDIES.—No person other than the United  
 5 States—

6 (1) shall have any cause of action or defense  
 7 under the Agreement or by virtue of congressional  
 8 approval thereof; or

9 (2) may challenge, in any action brought under  
 10 any provision of law, any action or inaction by any  
 11 department, agency, or other instrumentality of the  
 12 United States, any State, or any political subdivision  
 13 of a State, on the ground that such action or inac-  
 14 tion is inconsistent with the Agreement.

15 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**  
 16 **ENTRY INTO FORCE AND INITIAL REGULA-**  
 17 **TIONS.**

18 (a) IMPLEMENTING ACTIONS.—

19 (1) PROCLAMATION AUTHORITY.—After the  
 20 date of the enactment of this Act—

21 (A) the President may proclaim such ac-  
 22 tions, and

23 (B) other appropriate officers of the  
 24 United States Government may issue such reg-  
 25 ulations,



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

8 (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED  
9 ACTIONS.—Any action proclaimed by the President  
10 under the authority of this Act that is not subject  
11 to the consultation and layover provisions under section  
12 104 may not take effect before the 15th day  
13 after the date on which the text of the proclamation  
14 is published in the Federal Register.

15 (3) WAIVER OF 15-DAY RESTRICTION.—The 15-  
16 day restriction contained in paragraph (2) on the  
17 taking effect of proclaimed actions is waived to the  
18 extent that the application of such restriction would  
19 prevent the taking effect on the date the Agreement  
20 enters into force of any action proclaimed under this  
21 section.

22 (b) INITIAL REGULATIONS.—Initial regulations necessary  
23 or appropriate to carry out the actions required by  
24 or authorized under this Act or proposed in the statement  
25 of administrative action submitted under section

1 101(a)(2) to implement the Agreement shall, to the max-  
 2 imum extent feasible, be issued within 1 year after the  
 3 date on which the Agreement enters into force. In the case  
 4 of any implementing action that takes effect on a date  
 5 after the date on which the Agreement enters into force,  
 6 initial regulations to carry out that action shall, to the  
 7 maximum extent feasible, be issued within 1 year after  
 8 such effective date.

9 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**  
 10 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**  
 11 **TIONS.**

12 If a provision of this Act provides that the implemen-  
 13 tation of an action by the President by proclamation is  
 14 subject to the consultation and layover requirements of  
 15 this section, such action may be proclaimed only if—

16 (1) the President has obtained advice regarding  
 17 the proposed action from—

18 (A) the appropriate advisory committees  
 19 established under section 135 of the Trade Act  
 20 of 1974 (19 U.S.C. 2155); and

21 (B) the Commission;

22 (2) the President has submitted to the Com-  
 23 mittee on Finance of the Senate and the Committee  
 24 on Ways and Means of the House of Representatives  
 25 a report that sets forth—

1 (A) the action proposed to be proclaimed  
2 and the reasons therefor; and

3 (B) the advice obtained under paragraph  
4 (1);

5 (3) a period of 60 calendar days, beginning on  
6 the first day on which the requirements set forth in  
7 paragraphs (1) and (2) have been met has expired;  
8 and

9 (4) the President has consulted with such Com-  
10 mittees regarding the proposed action during the pe-  
11 riod referred to in paragraph (3).

12 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
13 **CEEDINGS.**

14 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—  
15 The President is authorized to establish or designate with-  
16 in the Department of Commerce an office that shall be  
17 responsible for providing administrative assistance to pan-  
18 els established under chapter 20 of the Agreement. The  
19 office may not be considered to be an agency for purposes  
20 of section 552 of title 5, United States Code.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated for each fiscal year after  
23 fiscal year 2005 to the Department of Commerce such  
24 sums as may be necessary for the establishment and oper-  
25 ations of the office established or designated under sub-

1 section (a) and for the payment of the United States share  
 2 of the expenses of panels established under chapter 20 of  
 3 the Agreement.

4 **SEC. 106. ARBITRATION OF CLAIMS.**

5 The United States is authorized to resolve any claim  
 6 against the United States covered by article  
 7 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agree-  
 8 ment, pursuant to the Investor-State Dispute Settlement  
 9 procedures set forth in section B of chapter 10 of the  
 10 Agreement.

11 **SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.**

12 (a) EFFECTIVE DATES.—Except as provided in sub-  
 13 section (b), the provisions of this Act and the amendments  
 14 made by this Act take effect on the date the Agreement  
 15 enters into force.

16 (b) EXCEPTIONS.—Sections 1 through 3 and this  
 17 title take effect on the date of the enactment of this Act.

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

23 (d) TERMINATION OF THE AGREEMENT.—On the  
 24 date on which the Agreement ceases to be in force with  
 25 respect to the United States, the provisions of this Act

1 (other than this subsection) and the amendments made  
 2 by this Act shall cease to have effect.

## 3 **TITLE II—CUSTOMS PROVISIONS**

### 4 **SEC. 201. TARIFF MODIFICATIONS.**

5 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
 6 AGREEMENT.—

7 (1) PROCLAMATION AUTHORITY.—The Presi-  
 8 dent may proclaim—

9 (A) such modifications or continuation of  
 10 any duty,

11 (B) such continuation of duty-free or ex-  
 12 cise treatment, or

13 (C) such additional duties,

14 as the President determines to be necessary or ap-  
 15 propriate to carry out or apply articles 3.3, 3.5, 3.6,  
 16 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27,  
 17 and 3.28 of the Agreement.

18 (2) EFFECT ON GSP STATUS.—Notwithstanding  
 19 section 502(a)(1) of the Trade Act of 1974 (19  
 20 U.S.C. 2462(a)(1)), the President shall terminate  
 21 the designation of each CAFTA–DR country as a  
 22 beneficiary developing country for purposes of title V  
 23 of the Trade Act of 1974 on the date the Agreement  
 24 enters into force with respect to that country.

25 (3) EFFECT ON CBERA STATUS.—

1 (A) IN GENERAL.—Notwithstanding sec-  
 2 tion 212(a) of the Caribbean Basin Economic  
 3 Recovery Act (19 U.S.C. 2702(a)), the Presi-  
 4 dent shall terminate the designation of each  
 5 CAFTA–DR country as a beneficiary country  
 6 for purposes of that Act on the date the Agree-  
 7 ment enters into force with respect to that  
 8 country.

9 (B) EXCEPTION.—Notwithstanding sub-  
 10 paragraph (A), each such country shall be con-  
 11 sidered a beneficiary country under section  
 12 212(a) of the Caribbean Basin Economic Re-  
 13 covery Act, for purposes of—

14 (i) sections 771(7)(G)(ii)(III) and  
 15 771(7)(H) of the Tariff Act of 1930 (19  
 16 U.S.C. 1677(7)(G)(ii)(III) and  
 17 1677(7)(H));

18 (ii) the duty-free treatment provided  
 19 under paragraph 12 of Appendix I of the  
 20 General Notes to the Schedule of the  
 21 United States to Annex 3.3 of the Agree-  
 22 ment; and

23 (iii) section 274(h)(6)(B) of the Inter-  
 24 nal Revenue Code of 1986.

1 (b) OTHER TARIFF MODIFICATIONS.—Subject to the  
 2 consultation and layover provisions of section 104, the  
 3 President may proclaim—

4 (1) such modifications or continuation of any  
 5 duty,

6 (2) such modifications as the United States  
 7 may agree to with a CAFTA–DR country regarding  
 8 the staging of any duty treatment set forth in Annex  
 9 3.3 of the Agreement,

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

12 (4) such additional duties,

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

16 (c) CONVERSION TO AD VALOREM RATES.—For pur-  
 17 poses of subsections (a) and (b), with respect to any good  
 18 for which the base rate in the Schedule of the United  
 19 States to Annex 3.3 of the Agreement is a specific or com-  
 20 pound rate of duty, the President may substitute for the  
 21 base rate an ad valorem rate that the President deter-  
 22 mines to be equivalent to the base rate.

23 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**  
 24 **TURAL GOODS.**

25 (a) GENERAL PROVISIONS.—

1 (1) APPLICABILITY OF SUBSECTION.—This sub-  
 2 section applies to additional duties assessed under  
 3 subsection (b).

4 (2) APPLICABLE NTR (MFN) RATE OF DUTY.—  
 5 For purposes of subsection (b), the term “applicable  
 6 NTR (MFN) rate of duty” means, with respect to  
 7 a safeguard good, a rate of duty that is the lesser  
 8 of—

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

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

19 (3) SCHEDULE RATE OF DUTY.—For purposes  
 20 of subsection (b), the term “schedule rate of duty”  
 21 means, with respect to a safeguard good, the rate of  
 22 duty for that good that is set out in the Schedule  
 23 of the United States to Annex 3.3 of the Agreement.

24 (4) SAFEGUARD GOOD.—In this section, the  
 25 term “safeguard good” means a good—



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

3 (B) that qualifies as an originating good  
 4 under section 203, except that operations per-  
 5 formed in or material obtained from the United  
 6 States shall be considered as if the operations  
 7 were performed in, and the material was ob-  
 8 tained from, a country that is not a party to  
 9 the Agreement; and

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

12 (5) EXCEPTIONS.—No additional duty shall be  
 13 assessed on a good under subsection (b) if, at the  
 14 time of entry, the good is subject to import relief  
 15 under—

16 (A) subtitle A of title III of this Act; or

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

19 (6) TERMINATION.—The assessment of an ad-  
 20 ditional duty on a good under subsection (b) shall  
 21 cease to apply to that good on the date on which  
 22 duty-free treatment must be provided to that good  
 23 under the Schedule of the United States to Annex  
 24 3.3 of the Agreement.

1           (7) NOTICE.—Not later than 60 days after the  
 2       Secretary of the Treasury first assesses an addi-  
 3       tional duty in a calendar year on a good under sub-  
 4       section (b), the Secretary shall notify the country  
 5       whose good is subject to the additional duty in writ-  
 6       ing of such action and shall provide to that country  
 7       data supporting the assessment of the additional  
 8       duty.

9       (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

10           (1) IN GENERAL.—In addition to any duty pro-  
 11       claimed under subsection (a) or (b) of section 201,  
 12       and subject to subsection (a), the Secretary of the  
 13       Treasury shall assess a duty, in the amount deter-  
 14       mined under paragraph (2), on a safeguard good of  
 15       a CAFTA–DR country imported into the United  
 16       States in a calendar year if the Secretary determines  
 17       that, prior to such importation, the total volume of  
 18       that safeguard good of such country that is imported  
 19       into the United States in that calendar year exceeds  
 20       130 percent of the volume that is set out for that  
 21       safeguard good in the corresponding year in the  
 22       table for that country contained in Appendix I of the  
 23       General Notes to the Schedule of the United States  
 24       to Annex 3.3 of the Agreement. For purposes of this  
 25       subsection, year 1 in that table corresponds to the

1       calendar year in which the Agreement enters into  
2       force.

3               (2) CALCULATION OF ADDITIONAL DUTY.—The  
4       additional duty on a safeguard good under this sub-  
5       section shall be—

6               (A) in the case of a good classified under  
7       subheading       1202.10.80,       1202.20.80,  
8       2008.11.15, 2008.11.35, or 2008.11.60 of the  
9       HTS—

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

14              (ii) in years 6 through 10, an amount  
15              equal to 75 percent of the excess of the ap-  
16              plicable NTR (MFN) rate of duty over the  
17              schedule rate of duty; and

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

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

24              (i) in years 1 through 14, an amount  
25              equal to 100 percent of the excess of the

applicable NTR (MFN) rate of duty over  
the schedule rate of duty;

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

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

#### **SEC. 203. RULES OF ORIGIN.**

(a) APPLICATION AND INTERPRETATION.—In this  
section:

(1) TARIFF CLASSIFICATION.—The basis for  
any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this  
section there is a reference to a chapter, heading, or  
subheading, such reference shall be a reference to a  
chapter, heading, or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value re-  
ferred to in this section shall be recorded and main-  
tained in accordance with the generally accepted ac-  
counting principles applicable in the territory of the  
country in which the good is produced (whether the  
United States or another CAFTA–DR country).

1 (b) ORIGINATING GOODS.—For purposes of this Act  
 2 and for purposes of implementing the preferential tariff  
 3 treatment provided for under the Agreement, except as  
 4 otherwise provided in this section, a good is an originating  
 5 good if—

6 (1) the good is a good wholly obtained or pro-  
 7 duced entirely in the territory of one or more of the  
 8 CAFTA–DR countries;

9 (2) the good—

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

13 (i) each of the nonoriginating mate-  
 14 rials used in the production of the good  
 15 undergoes an applicable change in tariff  
 16 classification specified in Annex 4.1 of the  
 17 Agreement; or

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

22 (B) satisfies all other applicable require-  
 23 ments of this section; or

24 (3) the good is produced entirely in the terri-  
 25 tory of one or more of the CAFTA–DR countries,

1 exclusively from materials described in paragraph  
2 (1) or (2).

3 (c) REGIONAL VALUE-CONTENT.—

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

12 (2) BUILD-DOWN METHOD.—

13 (A) IN GENERAL.—The regional value-con-  
14 tent of a good may be calculated on the basis  
15 of the following build-down method:

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

16 (B) DEFINITIONS.—In subparagraph (A):

17 (i) RVC.—The term “RVC” means  
18 the regional value-content of the good, ex-  
19 pressed as a percentage.

20 (ii) AV.—The term “AV” means the  
21 adjusted value of the good.

22 (iii) VNM.—The term “VNM” means  
23 the value of nonoriginating materials that  
24 are acquired and used by the producer in

1 the production of the good, but does not  
 2 include the value of a material that is self-  
 3 produced.

4 (3) BUILD-UP METHOD.—

5 (A) IN GENERAL.—The regional value-con-  
 6 tent of a good may be calculated on the basis  
 7 of the following build-up method:

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

8 (B) DEFINITIONS.—In subparagraph (A):

9 (i) RVC.—The term “RVC” means  
 10 the regional value-content of the good, ex-  
 11 pressed as a percentage.

12 (ii) AV.—The term “AV” means the  
 13 adjusted value of the good.

14 (iii) VOM.—The term “VOM” means  
 15 the value of originating materials that are  
 16 acquired or self-produced, and used by the  
 17 producer in the production of the good.

18 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
 19 GOODS.—

20 (A) IN GENERAL.—For purposes of sub-  
 21 section (b)(2), the regional value-content of an  
 22 automotive good referred to in Annex 4.1 of the  
 23 Agreement may be calculated by the importer,

exporter, or producer of the good, on the basis  
of the following net cost method:

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

(B) DEFINITIONS.—In subparagraph (A):

(i) AUTOMOTIVE GOOD.—The term “automotive good” means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC.—The term “RVC” means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC.—The term “NC” means the net cost of the automotive good.

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

(C) MOTOR VEHICLES.—

(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an



1 automotive good that is a motor vehicle  
 2 provided for in any of headings 8701  
 3 through 8705, an importer, exporter, or  
 4 producer may average the amounts cal-  
 5 culated under the formula contained in  
 6 subparagraph (A), over the producer's fis-  
 7 cal year—

8 (I) with respect to all motor vehi-  
 9 cles in any 1 of the categories de-  
 10 scribed in clause (ii); or

11 (II) with respect to all motor ve-  
 12 hicles in any such category that are  
 13 exported to the territory of one or  
 14 more of the CAFTA–DR countries.

15 (ii) CATEGORIES.—A category is de-  
 16 scribed in this clause if it—

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

24 (II) is the same class of motor  
 25 vehicles, and is produced in the same

1 plant in the territory of a CAFTA–  
 2 DR country, as the good described in  
 3 clause (i) for which regional value-  
 4 content is being calculated; or

5 (III) is the same model line of  
 6 motor vehicles produced in the terri-  
 7 tory of a CAFTA–DR country as the  
 8 good described in clause (i) for which  
 9 regional value-content is being cal-  
 10 culated.

11 (D) OTHER AUTOMOTIVE GOODS.—For  
 12 purposes of determining the regional value-con-  
 13 tent under subparagraph (A) for automotive  
 14 goods provided for in any of subheadings  
 15 8407.31 through 8407.34, in subheading  
 16 8408.20, or in heading 8409, 8706, 8707, or  
 17 8708, that are produced in the same plant, an  
 18 importer, exporter, or producer may—

19 (i) average the amounts calculated  
 20 under the formula contained in subpara-  
 21 graph (A) over—

22 (I) the fiscal year of the motor  
 23 vehicle producer to whom the auto-  
 24 motive goods are sold,

25 (II) any quarter or month, or

1 (III) its own fiscal year,  
 2 if the goods were produced during the fis-  
 3 cal year, quarter, or month that is the  
 4 basis for the calculation;

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

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

12 (E) CALCULATING NET COST.—The im-  
 13 porter, exporter, or producer shall, consistent  
 14 with the provisions regarding allocation of costs  
 15 set out in generally accepted accounting prin-  
 16 ciples, determine the net cost of an automotive  
 17 good under subparagraph (B) by—

18 (i) calculating the total cost incurred  
 19 with respect to all goods produced by the  
 20 producer of the automotive good, sub-  
 21 tracting any sales promotion, marketing  
 22 and after-sales service costs, royalties,  
 23 shipping and packing costs, and nonallow-  
 24 able interest costs that are included in the  
 25 total cost of all such goods, and then rea-

sonably allocating the resulting net cost of those goods to the automotive good;

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

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

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de

1        minimis rules under subsection (f), the value of a  
 2        material is—

3                (A) in the case of a material that is im-  
 4                ported by the producer of the good, the ad-  
 5                justed value of the material;

6                (B) in the case of a material acquired in  
 7                the territory in which the good is produced, the  
 8                value, determined in accordance with Articles 1  
 9                through 8, Article 15, and the corresponding in-  
 10              terpretive notes of the Agreement on Implemen-  
 11              tation of Article VII of the General Agreement  
 12              on Tariffs and Trade 1994 referred to in sec-  
 13              tion 101(d)(8) of the Uruguay Round Agree-  
 14              ments Act, as set forth in regulations promul-  
 15              gated by the Secretary of the Treasury pro-  
 16              viding for the application of such Articles in the  
 17              absence of an importation; or

18              (C) in the case of a material that is self-  
 19              produced, the sum of—

20                      (i) all expenses incurred in the pro-  
 21                      duction of the material, including general  
 22                      expenses; and

23                      (ii) an amount for profit equivalent to  
 24                      the profit added in the normal course of  
 25                      trade.

1           (2) FURTHER ADJUSTMENTS TO THE VALUE OF  
2 MATERIALS.—

3           (A) ORIGINATING MATERIAL.—The fol-  
4 lowing expenses, if not included in the value of  
5 an originating material calculated under para-  
6 graph (1), may be added to the value of the  
7 originating material:

8           (i) The costs of freight, insurance,  
9 packing, and all other costs incurred in  
10 transporting the material within or be-  
11 tween the territory of one or more of the  
12 CAFTA–DR countries to the location of  
13 the producer.

14           (ii) Duties, taxes, and customs broker-  
15 age fees on the material paid in the terri-  
16 tory of one or more of the CAFTA–DR  
17 countries, other than duties or taxes that  
18 are waived, refunded, refundable, or other-  
19 wise recoverable, including credit against  
20 duty or tax paid or payable.

21           (iii) The cost of waste and spoilage re-  
22 sulting from the use of the material in the  
23 production of the good, less the value of  
24 renewable scrap or byproducts.

1 (B) NONORIGINATING MATERIAL.—The  
2 following expenses, if included in the value of a  
3 nonoriginating material calculated under para-  
4 graph (1), may be deducted from the value of  
5 the nonoriginating material:

6 (i) The costs of freight, insurance,  
7 packing, and all other costs incurred in  
8 transporting the material within or be-  
9 tween the territory of one or more of the  
10 CAFTA–DR countries to the location of  
11 the producer.

12 (ii) Duties, taxes, and customs broker-  
13 age fees on the material paid in the terri-  
14 tory of one or more of the CAFTA–DR  
15 countries, other than duties or taxes that  
16 are waived, refunded, refundable, or other-  
17 wise recoverable, including credit against  
18 duty or tax paid or payable.

19 (iii) The cost of waste and spoilage re-  
20 sulting from the use of the material in the  
21 production of the good, less the value of  
22 renewable scrap or byproducts.

23 (iv) The cost of originating materials  
24 used in the production of the nonorigi-

1                   nating material in the territory of one or  
2                   more of the CAFTA–DR countries.

3           (e) ACCUMULATION.—

4                   (1) ORIGINATING MATERIALS USED IN PRODUC-  
5           TION OF GOODS OF ANOTHER COUNTRY.—Origina-  
6           ting materials from the territory of one or more  
7           of the CAFTA–DR countries that are used in the  
8           production of a good in the territory of another  
9           CAFTA–DR country shall be considered to originate  
10          in the territory of that other country.

11                  (2) MULTIPLE PROCEDURES.—A good that is  
12          produced in the territory of one or more of the  
13          CAFTA–DR countries by 1 or more producers is an  
14          originating good if the good satisfies the require-  
15          ments of subsection (b) and all other applicable re-  
16          quirements of this section.

17          (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
18          TERIALS.—

19                  (1) IN GENERAL.—Except as provided in para-  
20          graphs (2) and (3), a good that does not undergo a  
21          change in tariff classification pursuant to Annex 4.1  
22          of the Agreement is an originating good if—

23                          (A) the value of all nonoriginating mate-  
24                          rials that—



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

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

6 does not exceed 10 percent of the adjusted  
7 value of the good;

8 (B) the good meets all other applicable re-  
9 quirements of this section; and

10 (C) the value of such nonoriginating mate-  
11 rials is included in the value of nonoriginating  
12 materials for any applicable regional value-con-  
13 tent requirement for the good.

14 (2) EXCEPTIONS.—Paragraph (1) does not  
15 apply to the following:

16 (A) A nonoriginating material provided for  
17 in chapter 4, or a nonoriginating dairy prepara-  
18 tion containing over 10 percent by weight of  
19 milk solids provided for in subheading 1901.90  
20 or 2106.90, that is used in the production of a  
21 good provided for in chapter 4.

22 (B) A nonoriginating material provided for  
23 in chapter 4, or a nonoriginating dairy prepara-  
24 tion containing over 10 percent by weight of  
25 milk solids provided for in subheading 1901.90,

1           that is used in the production of the following  
2           goods:

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

6                   (ii) Mixes and doughs, containing over  
7                   25 percent by weight of butterfat, not put  
8                   up for retail sale, provided for in sub-  
9                   heading 1901.20.

10                  (iii) Dairy preparations containing  
11                  over 10 percent by weight of milk solids  
12                  provided for in subheading 1901.90 or  
13                  2106.90.

14                  (iv) Goods provided for in heading  
15                  2105.

16                  (v) Beverages containing milk pro-  
17                  vided for in subheading 2202.90.

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

21                  (C) A nonoriginating material provided for  
22                  in heading 0805, or any of subheadings  
23                  2009.11 through 2009.39, that is used in the  
24                  production of a good provided for in any of sub-  
25                  headings 2009.11 through 2009.39, or in fruit

1 or vegetable juice of any single fruit or vege-  
 2 table, fortified with minerals or vitamins, con-  
 3 centrated or unconcentrated, provided for in  
 4 subheading 2106.90 or 2202.90.

5 (D) A nonoriginating material provided for  
 6 in heading 0901 or 2101 that is used in the  
 7 production of a good provided for in heading  
 8 0901 or 2101.

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

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

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

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

23 (I) Except as provided in subparagraphs  
 24 (A) through (H) and Annex 4.1 of the Agree-  
 25 ment, a nonoriginating material used in the

production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) TEXTILE OR APPAREL GOODS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

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

(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV))(as in effect on the date of the enactment of this Act).

1 (B) CERTAIN TEXTILE OR APPAREL  
 2 GOODS.—A textile or apparel good containing  
 3 elastomeric yarns in the component of the good  
 4 that determines the tariff classification of the  
 5 good shall be considered to be an originating  
 6 good only if such yarns are wholly formed in  
 7 the territory of a CAFTA–DR country.

8 (C) YARN, FABRIC, OR FIBER.—For pur-  
 9 poses of this paragraph, in the case of a good  
 10 that is a yarn, fabric, or fiber, the term “com-  
 11 ponent of the good that determines the tariff  
 12 classification of the good” means all of the fi-  
 13 bers in the good.

14 (g) FUNGIBLE GOODS AND MATERIALS.—

15 (1) IN GENERAL.—

16 (A) CLAIM FOR PREFERENTIAL TARIFF  
 17 TREATMENT.—A person claiming that a fun-  
 18 gible good or fungible material is an originating  
 19 good may base the claim either on the physical  
 20 segregation of the fungible good or fungible ma-  
 21 terial or by using an inventory management  
 22 method with respect to the fungible good or  
 23 fungible material.

1 (B) INVENTORY MANAGEMENT METHOD.—

2 In this subsection, the term “inventory manage-  
3 ment method” means—

- 4 (i) averaging;
- 5 (ii) “last-in, first-out”;
- 6 (iii) “first-in, first-out”; or
- 7 (iv) any other method—

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

12 (II) otherwise accepted by that  
13 country.

14 (2) ELECTION OF INVENTORY METHOD.—A  
15 person selecting an inventory management method  
16 under paragraph (1) for a particular fungible good  
17 or fungible material shall continue to use that meth-  
18 od for that fungible good or fungible material  
19 throughout the fiscal year of that person.

20 (h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

21 (1) IN GENERAL.—Subject to paragraphs (2)  
22 and (3), accessories, spare parts, or tools delivered  
23 with a good that form part of the good’s standard  
24 accessories, spare parts, or tools shall—

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

3 (B) be disregarded in determining whether  
 4 all the nonoriginating materials used in the pro-  
 5 duction of the good undergo the applicable  
 6 change in tariff classification set out in Annex  
 7 4.1 of the Agreement.

8 (2) CONDITIONS.—Paragraph (1) shall apply  
 9 only if—

10 (A) the accessories, spare parts, or tools  
 11 are classified with and not invoiced separately  
 12 from the good, regardless of whether they ap-  
 13 pear specified or separately identified in the in-  
 14 voice for the good; and

15 (B) the quantities and value of the acces-  
 16 sories, spare parts, or tools are customary for  
 17 the good.

18 (3) REGIONAL VALUE-CONTENT.—If the good is  
 19 subject to a regional value-content requirement, the  
 20 value of the accessories, spare parts, or tools shall  
 21 be taken into account as originating or nonorigi-  
 22 nating materials, as the case may be, in calculating  
 23 the regional value-content of the good.

24 (i) PACKAGING MATERIALS AND CONTAINERS FOR  
 25 RETAIL SALE.—Packaging materials and containers in

1 which a good is packaged for retail sale, if classified with  
 2 the good, shall be disregarded in determining whether all  
 3 the nonoriginating materials used in the production of the  
 4 good undergo the applicable change in tariff classification  
 5 set out in Annex 4.1 of the Agreement, and, if the good  
 6 is subject to a regional value-content requirement, the  
 7 value of such packaging materials and containers shall be  
 8 taken into account as originating or nonoriginating mate-  
 9 rials, as the case may be, in calculating the regional value-  
 10 content of the good.

11 (j) PACKING MATERIALS AND CONTAINERS FOR  
 12 SHIPMENT.—Packing materials and containers for ship-  
 13 ment shall be disregarded in determining whether a good  
 14 is an originating good.

15 (k) INDIRECT MATERIALS.—An indirect material  
 16 shall be treated as an originating material without regard  
 17 to where it is produced.

18 (l) TRANSIT AND TRANSHIPMENT.—A good that has  
 19 undergone production necessary to qualify as an origi-  
 20 nating good under subsection (b) shall not be considered  
 21 to be an originating good if, subsequent to that produc-  
 22 tion, the good—

23 (1) undergoes further production or any other  
 24 operation outside the territories of the CAFTA–DR  
 25 countries, other than unloading, reloading, or any



1 other operation necessary to preserve the good in  
 2 good condition or to transport the good to the terri-  
 3 tory of a CAFTA–DR country; or

4 (2) does not remain under the control of cus-  
 5 toms authorities in the territory of a country other  
 6 than a CAFTA–DR country.

7 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN  
 8 SETS.—Notwithstanding the rules set forth in Annex 4.1  
 9 of the Agreement, goods classifiable as goods put up in  
 10 sets for retail sale as provided for in General Rule of Inter-  
 11 pretation 3 of the HTS shall not be considered to be origi-  
 12 nating goods unless—

13 (1) each of the goods in the set is an origi-  
 14 nating good; or

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

17 (A) in the case of textile or apparel goods,  
 18 10 percent of the adjusted value of the set; or

19 (B) in the case of a good, other than a tex-  
 20 tile or apparel good, 15 percent of the adjusted  
 21 value of the set.

22 (n) DEFINITIONS.—In this section:

23 (1) ADJUSTED VALUE.—The term “adjusted  
 24 value” means the value determined in accordance  
 25 with Articles 1 through 8, Article 15, and the cor-

1        responding interpretive notes of the Agreement on  
 2        Implementation of Article VII of the General Agree-  
 3        ment on Tariffs and Trade 1994 referred to in sec-  
 4        tion 101(d)(8) of the Uruguay Round Agreements  
 5        Act, adjusted, if necessary, to exclude any costs,  
 6        charges, or expenses incurred for transportation, in-  
 7        surance, and related services incident to the inter-  
 8        national shipment of the merchandise from the coun-  
 9        try of exportation to the place of importation.

10            (2)    CAFTA–DR    COUNTRY.—The    term  
 11        “CAFTA–DR country” means—

12                    (A) the United States; and

13                    (B) Costa Rica, the Dominican Republic,  
 14        El Salvador, Guatemala, Honduras, or Nica-  
 15        ragua, for such time as the Agreement is in  
 16        force between the United States and that coun-  
 17        try.

18            (3)    CLASS OF MOTOR VEHICLES.—The term  
 19        “class of motor vehicles” means any one of the fol-  
 20        lowing categories of motor vehicles:

21                    (A) Motor vehicles provided for in sub-  
 22        heading 8701.20, 8704.10, 8704.22, 8704.23,  
 23        8704.32, or 8704.90, or heading 8705 or 8706,  
 24        or motor vehicles for the transport of 16 or

1 more persons provided for in subheading  
2 8702.10 or 8702.90.

3 (B) Motor vehicles provided for in sub-  
4 heading 8701.10 or any of subheadings  
5 8701.30 through 8701.90.

6 (C) Motor vehicles for the transport of 15  
7 or fewer persons provided for in subheading  
8 8702.10 or 8702.90, or motor vehicles provided  
9 for in subheading 8704.21 or 8704.31.

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

12 (4) FUNGIBLE GOOD OR FUNGIBLE MATE-  
13 RIAL.—The term “fungible good” or “fungible mate-  
14 rial” means a good or material, as the case may be,  
15 that is interchangeable with another good or mate-  
16 rial for commercial purposes and the properties of  
17 which are essentially identical to such other good or  
18 material.

19 (5) GENERALLY ACCEPTED ACCOUNTING PRIN-  
20 CIPLES.—The term “generally accepted accounting  
21 principles” means the recognized consensus or sub-  
22 stantial authoritative support in the territory of a  
23 CAFTA–DR country with respect to the recording  
24 of revenues, expenses, costs, assets, and liabilities,  
25 the disclosure of information, and the preparation of

1 financial statements. The principles may encompass  
 2 broad guidelines of general application as well as de-  
 3 tailed standards, practices, and procedures.

4 (6) GOODS WHOLLY OBTAINED OR PRODUCED  
 5 ENTIRELY IN THE TERRITORY OF ONE OR MORE OF  
 6 THE CAFTA–DR COUNTRIES.—The term “goods  
 7 wholly obtained or produced entirely in the territory  
 8 of one or more of the CAFTA–DR countries”  
 9 means—

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

13 (B) live animals born and raised in the ter-  
 14 ritory of one or more of the CAFTA–DR coun-  
 15 tries;

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

19 (D) goods obtained from hunting, trap-  
 20 ping, fishing or aquaculture conducted in the  
 21 territory of one or more of the CAFTA–DR  
 22 countries;

23 (E) minerals and other natural resources  
 24 not included in subparagraphs (A) through (D)

1           that are extracted or taken in the territory of  
2           one or more of the CAFTA–DR countries;

3           (F) fish, shellfish, and other marine life  
4           taken from the sea, seabed, or subsoil outside  
5           the territory of one or more of the CAFTA–DR  
6           countries by vessels registered or recorded with  
7           a CAFTA–DR country and flying the flag of  
8           that country;

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

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

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

24          (J) waste and scrap derived from—

1 (i) manufacturing or processing oper-  
 2 ations in the territory of one or more of  
 3 the CAFTA–DR countries; or

4 (ii) used goods collected in the terri-  
 5 tory of one or more of the CAFTA–DR  
 6 countries, if such goods are fit only for the  
 7 recovery of raw materials;

8 (K) recovered goods derived in the terri-  
 9 tory of one or more of the CAFTA–DR coun-  
 10 tries from used goods, and used in the territory  
 11 of a CAFTA–DR country in the production of  
 12 remanufactured goods; and

13 (L) goods produced in the territory of one  
 14 or more of the CAFTA–DR countries exclu-  
 15 sively from—

16 (i) goods referred to in any of sub-  
 17 paragraphs (A) through (J), or

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

20 at any stage of production.

21 (7) IDENTICAL GOODS.—The term “identical  
 22 goods” means identical goods as defined in the  
 23 Agreement on Implementation of Article VII of the  
 24 General Agreement on Tariffs and Trade 1994 re-

1       ferred to in section 101(d)(8) of the Uruguay Round  
2       Agreements Act;

3           (8) INDIRECT MATERIAL.—The term “indirect  
4       material” means a good used in the production, test-  
5       ing, or inspection of a good but not physically incor-  
6       porated into the good, or a good used in the mainte-  
7       nance of buildings or the operation of equipment as-  
8       sociated with the production of a good, including—

9           (A) fuel and energy;

10          (B) tools, dies, and molds;

11          (C) spare parts and materials used in the  
12       maintenance of equipment or buildings;

13          (D) lubricants, greases, compounding ma-  
14       terials, and other materials used in production  
15       or used to operate equipment or buildings;

16          (E) gloves, glasses, footwear, clothing,  
17       safety equipment, and supplies;

18          (F) equipment, devices, and supplies used  
19       for testing or inspecting the good;

20          (G) catalysts and solvents; and

21          (H) any other goods that are not incor-  
22       porated into the good but the use of which in  
23       the production of the good can reasonably be  
24       demonstrated to be a part of that production.

1           (9) MATERIAL.—The term “material” means a  
 2           good that is used in the production of another good,  
 3           including a part or an ingredient.

4           (10) MATERIAL THAT IS SELF-PRODUCED.—  
 5           The term “material that is self-produced” means an  
 6           originating material that is produced by a producer  
 7           of a good and used in the production of that good.

8           (11) MODEL LINE.—The term “model line”  
 9           means a group of motor vehicles having the same  
 10          platform or model name.

11          (12) NET COST.—The term “net cost” means  
 12          total cost minus sales promotion, marketing, and  
 13          after-sales service costs, royalties, shipping and  
 14          packing costs, and non-allowable interest costs that  
 15          are included in the total cost.

16          (13) NONALLOWABLE INTEREST COSTS.—The  
 17          term “nonallowable interest costs” means interest  
 18          costs incurred by a producer that exceed 700 basis  
 19          points above the applicable official interest rate for  
 20          comparable maturities of the CAFTA–DR country  
 21          in which the producer is located.

22          (14) NONORIGINATING GOOD OR NONORIGI-  
 23          NATING MATERIAL.—The terms “nonoriginating  
 24          good” and “nonoriginating material” mean a good



1 or material, as the case may be, that does not qual-  
 2 ify as originating under this section.

3 (15) PACKING MATERIALS AND CONTAINERS  
 4 FOR SHIPMENT.—The term “packing materials and  
 5 containers for shipment” means the goods used to  
 6 protect a good during its transportation and does  
 7 not include the packaging materials and containers  
 8 in which a good is packaged for retail sale.

9 (16) PREFERENTIAL TARIFF TREATMENT.—  
 10 The term “preferential tariff treatment” means the  
 11 customs duty rate, and the treatment under article  
 12 3.10.4 of the Agreement, that are applicable to an  
 13 originating good pursuant to the Agreement.

14 (17) PRODUCER.—The term “producer” means  
 15 a person who engages in the production of a good  
 16 in the territory of a CAFTA–DR country.

17 (18) PRODUCTION.—The term “production”  
 18 means growing, mining, harvesting, fishing, raising,  
 19 trapping, hunting, manufacturing, processing, as-  
 20 sembling, or disassembling a good.

21 (19) REASONABLY ALLOCATE.—The term “rea-  
 22 sonably allocate” means to apportion in a manner  
 23 that would be appropriate under generally accepted  
 24 accounting principles.

1           (20) RECOVERED GOODS.—The term “recov-  
 2       ered goods” means materials in the form of indi-  
 3       vidual parts that are the result of—

4           (A) the disassembly of used goods into in-  
 5       dividual parts; and

6           (B) the cleaning, inspecting, testing, or  
 7       other processing that is necessary for improve-  
 8       ment to sound working condition of such indi-  
 9       vidual parts.

10          (21) REMANUFACTURED GOOD.—The term “re-  
 11       manufactured good” means a good that is classified  
 12       under chapter 84, 85, or 87, or heading 9026, 9031,  
 13       or 9032, other than a good classified under heading  
 14       8418 or 8516, and that—

15          (A) is entirely or partially comprised of re-  
 16       covered goods; and

17          (B) has a similar life expectancy and en-  
 18       joys a factory warranty similar to such a new  
 19       good.

20          (22) TOTAL COST.—The term “total cost”  
 21       means all product costs, period costs, and other  
 22       costs for a good incurred in the territory of one or  
 23       more of the CAFTA–DR countries.

24          (23) USED.—The term “used” means used or  
 25       consumed in the production of goods.

1 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

2 (1) IN GENERAL.—The President is authorized  
3 to proclaim, as part of the HTS—

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

6 (B) any additional subordinate category  
7 necessary to carry out this title consistent with  
8 the Agreement.

9 (2) FABRICS AND YARNS NOT AVAILABLE IN  
10 COMMERCIAL QUANTITIES IN THE UNITED  
11 STATES.—The President is authorized to proclaim  
12 that a fabric or yarn is added to the list in Annex  
13 3.25 of the Agreement in an unrestricted quantity,  
14 as provided in article 3.25.4(e) of the Agreement.

15 (3) MODIFICATIONS.—

16 (A) IN GENERAL.—Subject to the consulta-  
17 tion and layover provisions of section 104, the  
18 President may proclaim modifications to the  
19 provisions proclaimed under the authority of  
20 paragraph (1)(A), other than provisions of  
21 chapters 50 through 63, as included in Annex  
22 4.1 of the Agreement.

23 (B) ADDITIONAL PROCLAMATIONS.—Not-  
24 withstanding subparagraph (A), and subject to  
25 the consultation and layover provisions of sec-

tion 104, the President may proclaim before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other non-substantive technical error regarding the provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE CAFTA-DR COUNTRIES.—

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

(B) DEFINITIONS.—In this paragraph:

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

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

1 (C) REQUESTS TO ADD FABRICS, YARNS,  
 2 OR FIBERS.—(i) An interested entity may re-  
 3 quest the President to determine that a fabric,  
 4 yarn, or fiber is not available in commercial  
 5 quantities in a timely manner in the CAFTA–  
 6 DR countries and to add that fabric, yarn, or  
 7 fiber to the list in Annex 3.25 of the Agreement  
 8 in a restricted or unrestricted quantity.

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

11 (I) the fabric, yarn, or fiber is avail-  
 12 able in commercial quantities in a timely  
 13 manner in the CAFTA–DR countries; or

14 (II) any interested entity objects to  
 15 the request.

16 (iii) The President may, within the time  
 17 periods specified in clause (iv), proclaim that a  
 18 fabric, yarn, or fiber that is the subject of a re-  
 19 quest submitted under clause (i) is added to the  
 20 list in Annex 3.25 of the Agreement in an unre-  
 21 stricted quantity, or in any restricted quantity  
 22 that the President may establish, if the Presi-  
 23 dent determines under clause (ii) that—

24 (I) the fabric, yarn, or fiber is not  
 25 available in commercial quantities in a

1           timely manner in the CAFTA–DR coun-  
 2           tries; or

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

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

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

11                   (II) not later than 44 days after the  
 12          request is submitted, if the President de-  
 13          termines, within 30 days after the date on  
 14          which the request is submitted, that the  
 15          President does not have sufficient informa-  
 16          tion to make a determination under clause  
 17          (ii).

18          (v) Notwithstanding section 103(a)(2), a  
 19          proclamation made under clause (iii) shall take  
 20          effect on the date on which the text of the proc-  
 21          lamation is published in the Federal Register.

22          (vi) Not later than 6 months after pro-  
 23          claiming under clause (iii) that a fabric, yarn,  
 24          or fiber is added to the list in Annex 3.25 of  
 25          the Agreement in a restricted quantity, the

1 President may eliminate the restriction if the  
 2 President determines that the fabric, yarn, or  
 3 fiber is not available in commercial quantities in  
 4 a timely manner in the CAFTA–DR countries.

5 (D) DEEMED APPROVAL OF REQUEST.—If,  
 6 after an interested entity submits a request  
 7 under subparagraph (C)(i), the President does  
 8 not, within the applicable time period specified  
 9 in subparagraph (C)(iv), make a determination  
 10 under subparagraph (C)(ii) regarding the re-  
 11 quest, the fabric, yarn, or fiber that is the sub-  
 12 ject of the request shall be considered to be  
 13 added, in an unrestricted quantity, to the list in  
 14 Annex 3.25 of the Agreement beginning—

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

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

21 (E) REQUESTS TO RESTRICT OR REMOVE  
 22 FABRICS, YARNS, OR FIBERS.—(i) Subject to  
 23 clause (ii), an interested entity may request the  
 24 President to restrict the quantity of, or remove

1 from the list in Annex 3.25 of the Agreement,  
2 any fabric, yarn, or fiber—

3 (I) that has been added to that list in  
4 an unrestricted quantity pursuant to para-  
5 graph (2) or subparagraph (C)(iii) or (D);  
6 or

7 (II) with respect to which the Presi-  
8 dent has eliminated a restriction under  
9 subparagraph (C)(vi).

10 (ii) An interested entity may submit a re-  
11 quest under clause (i) at any time beginning 6  
12 months after the date of the action described in  
13 subclause (I) or (II) of that clause.

14 (iii) Not later than 30 days after the date  
15 on which a request under clause (i) is sub-  
16 mitted, the President may proclaim an action  
17 provided for under clause (i) if the President  
18 determines that the fabric, yarn, or fiber that  
19 is the subject of the request is available in com-  
20 mercial quantities in a timely manner in the  
21 CAFTA–DR countries.

22 (iv) A proclamation declared under clause  
23 (iii) shall take effect no earlier than the date  
24 that is 6 months after the date on which the



1 text of the proclamation is published in the  
 2 Federal Register.

3 (F) PROCEDURES.—The President shall  
 4 establish procedures—

5 (i) governing the submission of a re-  
 6 quest under subparagraphs (C) and (E);  
 7 and

8 (ii) providing an opportunity for inter-  
 9 ested entities to submit comments and sup-  
 10 porting evidence before the President  
 11 makes a determination under subpara-  
 12 graph (C) (ii) or (vi) or (E)(iii).

13 **SEC. 204. CUSTOMS USER FEES.**

14 Section 13031(b) of the Consolidated Omnibus Budg-  
 15 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is  
 16 amended by adding after paragraph (14), the following:

17 “(15) No fee may be charged under subsection  
 18 (a) (9) or (10) with respect to goods that qualify as  
 19 originating goods under section 203 of the Domini-  
 20 can Republic-Central America-United States Free  
 21 Trade Agreement Implementation Act. Any service  
 22 for which an exemption from such fee is provided by  
 23 reason of this paragraph may not be funded with  
 24 money contained in the Customs User Fee Ac-  
 25 count.”.

1 **SEC. 205. RETROACTIVE APPLICATION FOR CERTAIN LIQ-**  
2 **UIDATIONS AND RELIQUIDATIONS OF TEX-**  
3 **TILE OR APPAREL GOODS.**

4 (a) IN GENERAL.—Notwithstanding section 514 of  
5 the Tariff Act of 1930 (19 U.S.C. 1514) or any other pro-  
6 vision of law, and subject to subsection (c), an entry—

7 (1) of a textile or apparel good—

8 (A) of a CAFTA–DR country that the  
9 United States Trade Representative has des-  
10 ignated as an eligible country under subsection  
11 (b), and

12 (B) that would have qualified as an origi-  
13 nating good under section 203 if the good had  
14 been entered after the date of entry into force  
15 of the Agreement for that country,

16 (2) that was made on or after January 1, 2004,  
17 and before the date of the entry into force of the  
18 Agreement with respect to that country, and

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

23 shall be liquidated or reliquidated at the applicable rate  
24 of duty for that good set out in the Schedule of the United  
25 States to Annex 3.3 of the Agreement, and the Secretary

1 of the Treasury shall refund any excess customs duties  
2 paid with respect to such entry.

3 (b) ELIGIBLE COUNTRY.—The United States Trade  
4 Representative shall determine, in accordance with article  
5 3.20 of the Agreement, which CAFTA–DR countries are  
6 eligible countries for purposes of this section, and shall  
7 publish a list of all such countries in the Federal Register.

8 (c) REQUESTS.—Liquidation or reliquidation may be  
9 made under subsection (a) with respect to an entry of a  
10 textile or apparel good only if a request therefor is filed  
11 with the Bureau of Customs and Border Protection, with-  
12 in such period as the Bureau of Customs and Border Pro-  
13 tection shall establish by regulation in consultation with  
14 the Secretary of the Treasury, that contains sufficient in-  
15 formation to enable the Bureau of Customs and Border  
16 Protection—

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

18 (B) to reconstruct the entry if it cannot be lo-  
19 cated; and

20 (2) to determine that the good satisfies the con-  
21 ditions set out in subsection (a).

22 (d) DEFINITION.—As used in this section, the term  
23 “entry” includes a withdrawal from warehouse for con-  
24 sumption.

1 **SEC. 206. DISCLOSURE OF INCORRECT INFORMATION;**  
2 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**  
3 **OF PREFERENTIAL TARIFF TREATMENT.**

4 (a) DISCLOSURE OF INCORRECT INFORMATION.—  
5 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)  
6 is amended—

7 (1) in subsection (c)—

8 (A) by redesignating paragraph (9) as  
9 paragraph (10); and

10 (B) by inserting after paragraph (8) the  
11 following new paragraph:

12 “(9) PRIOR DISCLOSURE REGARDING CLAIMS  
13 UNDER THE DOMINICAN REPUBLIC-CENTRAL AMER-  
14 ICA-UNITED STATES FREE TRADE AGREEMENT.—An  
15 importer shall not be subject to penalties under sub-  
16 section (a) for making an incorrect claim that a  
17 good qualifies as an originating good under section  
18 203 of the Dominican Republic-Central America-  
19 United States Free Trade Agreement Implementa-  
20 tion Act if the importer, in accordance with regula-  
21 tions issued by the Secretary of the Treasury,  
22 promptly and voluntarily makes a corrected declara-  
23 tion and pays any duties owing.”; and

24 (2) by adding at the end the following new sub-  
25 section:

1       “(h) FALSE CERTIFICATIONS OF ORIGIN UNDER THE  
2 DOMINICAN     REPUBLIC-CENTRAL     AMERICA-UNITED  
3 STATES FREE TRADE AGREEMENT.—

4           “(1) IN GENERAL.—Subject to paragraph (2),  
5 it is unlawful for any person to certify falsely, by  
6 fraud, gross negligence, or negligence, in a CAFTA–  
7 DR certification of origin (as defined in section  
8 508(g)(1)(B) of this Act) that a good exported from  
9 the United States qualifies as an originating good  
10 under the rules of origin set out in section 203 of  
11 the Dominican Republic-Central America-United  
12 States Free Trade Agreement Implementation Act.  
13 The procedures and penalties of this section that  
14 apply to a violation of subsection (a) also apply to  
15 a violation of this subsection.

16           “(2) PROMPT AND VOLUNTARY DISCLOSURE OF  
17 INCORRECT INFORMATION.—No penalty shall be im-  
18 posed under this subsection if, promptly after an ex-  
19 porter or producer that issued a CAFTA–DR certifi-  
20 cation of origin has reason to believe that such cer-  
21 tification contains or is based on incorrect informa-  
22 tion, the exporter or producer voluntarily provides  
23 written notice of such incorrect information to every  
24 person to whom the certification was issued.

1           “(3) EXCEPTION.—A person may not be consid-  
2           ered to have violated paragraph (1) if—

3                   “(A) the information was correct at the  
4                   time it was provided in a CAFTA–DR certifi-  
5                   cation of origin but was later rendered incorrect  
6                   due to a change in circumstances; and

7                   “(B) the person promptly and voluntarily  
8                   provides written notice of the change in cir-  
9                   cumstances to all persons to whom the person  
10                  provided the certification.”.

11          (b) DENIAL OF PREFERENTIAL TARIFF TREAT-  
12          MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.  
13          1514) is amended by adding at the end the following new  
14          subsection:

15          “(h) DENIAL OF PREFERENTIAL TARIFF TREAT-  
16          MENT UNDER THE DOMINICAN REPUBLIC-CENTRAL  
17          AMERICA-UNITED STATES FREE TRADE AGREEMENT.—  
18          If the Bureau of Customs and Border Protection or the  
19          Bureau of Immigration and Customs Enforcement finds  
20          indications of a pattern of conduct by an importer, ex-  
21          porter, or producer of false or unsupported representa-  
22          tions that goods qualify under the rules of origin set out  
23          in section 203 of the Dominican Republic-Central Amer-  
24          ica-United States Free Trade Agreement Implementation  
25          Act, the Bureau of Customs and Border Protection, in ac-

1 cordance with regulations issued by the Secretary of the  
 2 Treasury, may suspend preferential tariff treatment under  
 3 the Dominican Republic-Central America-United States  
 4 Free Trade Agreement to entries of identical goods cov-  
 5 ered by subsequent representations by that importer, ex-  
 6 porter, or producer until the Bureau of Customs and Bor-  
 7 der Protection determines that representations of that  
 8 person are in conformity with such section 203.”.

9 **SEC. 207. RELIQUIDATION OF ENTRIES.**

10 Subsection (d) of section 520 of the Tariff Act of  
 11 1930 (19 U.S.C. 1520(d)) is amended—

12 (1) in the matter preceding paragraph (1), by  
 13 striking “or section 202 of the United States-Chile  
 14 Free Trade Agreement Implementation Act” and in-  
 15 serting “, section 202 of the United States-Chile  
 16 Free Trade Agreement Implementation Act, or sec-  
 17 tion 203 of the Dominican Republic-Central Amer-  
 18 ica-United States Free Trade Agreement Implemen-  
 19 tation Act”; and

20 (2) in paragraph (2), by inserting “or certifi-  
 21 cations” after “other certificates”.

22 **SEC. 208. RECORDKEEPING REQUIREMENTS.**

23 Section 508 of the Tariff Act of 1930 (19 U.S.C.  
 24 1508) is amended—

1           (1) by redesignating subsection (g) as sub-  
2           section (h);

3           (2) by inserting after subsection (f) the fol-  
4           lowing new subsection:

5           “(g) CERTIFICATIONS OF ORIGIN FOR GOODS EX-  
6           PORTED UNDER THE DOMINICAN REPUBLIC-CENTRAL  
7           AMERICA-UNITED STATES FREE TRADE AGREEMENT.—

8           “(1) DEFINITIONS.—In this subsection:

9           “(A) RECORDS AND SUPPORTING DOCU-  
10           MENTS.—The term ‘records and supporting  
11           documents’ means, with respect to an exported  
12           good under paragraph (2), records and docu-  
13           ments related to the origin of the good,  
14           including—

15           “(i) the purchase, cost, and value of,  
16           and payment for, the good;

17           “(ii) the purchase, cost, and value of,  
18           and payment for, all materials, including  
19           indirect materials, used in the production  
20           of the good; and

21           “(iii) the production of the good in  
22           the form in which it was exported.

23           “(B) CAFTA–DR CERTIFICATION OF ORI-  
24           GIN.—The term ‘CAFTA–DR certification of  
25           origin’ means the certification established under



1 article 4.16 of the Dominican Republic-Central  
 2 America-United States Free Trade Agreement  
 3 that a good qualifies as an originating good  
 4 under such Agreement.

5 “(2) EXPORTS TO CAFTA–DR COUNTRIES.—Any  
 6 person who completes and issues a CAFTA–DR cer-  
 7 tification of origin for a good exported from the  
 8 United States shall make, keep, and, pursuant to  
 9 rules and regulations promulgated by the Secretary  
 10 of the Treasury, render for examination and inspec-  
 11 tion all records and supporting documents related to  
 12 the origin of the good (including the certification or  
 13 copies thereof).

14 “(3) RETENTION PERIOD.—Records and sup-  
 15 porting documents shall be kept by the person who  
 16 issued a CAFTA–DR certification of origin for at  
 17 least 5 years after the date on which the certifi-  
 18 cation was issued.”; and

19 (3) in subsection (h), as so redesignated—

20 (A) by inserting “or (g)” after “(f)”; and

21 (B) by striking “that subsection” and in-  
 22 serting “either such subsection”.

23 **SEC. 209. ENFORCEMENT RELATING TO TRADE IN TEXTILE**  
 24 **OR APPAREL GOODS.**

25 (a) ACTION DURING VERIFICATION.—

1           (1) IN GENERAL.—If the Secretary of the  
 2           Treasury requests the government of a CAFTA–DR  
 3           country to conduct a verification pursuant to article  
 4           3.24 of the Agreement for purposes of making a de-  
 5           termination under paragraph (2), the President may  
 6           direct the Secretary to take appropriate action de-  
 7           scribed in subsection (b) while the verification is  
 8           being conducted.

9           (2) DETERMINATION.—A determination under  
 10          this paragraph is a determination—

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

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

18                         (i) qualifies as an originating good  
 19                         under section 203 of this Act, or

20                         (ii) is a good of a CAFTA–DR coun-  
 21                         try,

22                 is accurate.

23          (b) APPROPRIATE ACTION DESCRIBED.—Appropriate  
 24          action under subsection (a)(1) includes—

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

3           (A) any textile or apparel good exported or  
4       produced by the person that is the subject of a  
5       verification under subsection (a)(1) regarding  
6       compliance described in subsection (a)(2)(A), if  
7       the Secretary determines there is insufficient  
8       information to support any claim for pref-  
9       erential tariff treatment that has been made  
10      with respect to any such good; or

11          (B) the textile or apparel good for which a  
12      claim of preferential tariff treatment has been  
13      made that is the subject of a verification under  
14      subsection (a)(1) regarding a claim described in  
15      subsection (a)(2)(B), if the Secretary deter-  
16      mines there is insufficient information to sup-  
17      port that claim;

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

20          (A) any textile or apparel good exported or  
21      produced by the person that is the subject of a  
22      verification under subsection (a)(1) regarding  
23      compliance described in subsection (a)(2)(A), if  
24      the Secretary determines that the person has  
25      provided incorrect information to support any

1 claim for preferential tariff treatment that has  
2 been made with respect to any such good; or

3 (B) the textile or apparel good for which a  
4 claim of preferential tariff treatment has been  
5 made that is the subject of a verification under  
6 subsection (a)(1) regarding a claim described in  
7 subsection (a)(2)(B), if the Secretary deter-  
8 mines that a person has provided incorrect in-  
9 formation to support that claim;

10 (3) detention of any textile or apparel good ex-  
11 ported or produced by the person that is the subject  
12 of a verification under subsection (a)(1) regarding  
13 compliance described in subsection (a)(2)(A) or a  
14 claim described in subsection (a)(2)(B), if the Sec-  
15 retary determines there is insufficient information to  
16 determine the country of origin of any such good;  
17 and

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

1 (c) ACTION ON COMPLETION OF A VERIFICATION.—

2 On completion of a verification under subsection (a), the  
 3 President may direct the Secretary to take appropriate ac-  
 4 tion described in subsection (d) until such time as the Sec-  
 5 retary receives information sufficient to make the deter-  
 6 mination under subsection (a)(2) or until such earlier date  
 7 as the President may direct.

8 (d) APPROPRIATE ACTION DESCRIBED.—Appro-  
 9 priate action under subsection (c) includes—

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

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

21 (B) the textile or apparel good for which a  
 22 claim of preferential tariff treatment has been  
 23 made that is the subject of a verification under  
 24 subsection (a)(1) regarding a claim described in  
 25 subsection (a)(2)(B), if the Secretary deter-

1           mines there is insufficient information to sup-  
 2           port, or that a person has provided incorrect in-  
 3           formation to support, that claim; and

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

13          (e) PUBLICATION OF NAME OF PERSON.—The Sec-  
 14          retary may publish the name of any person that the Sec-  
 15          retary has determined—

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

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

21   **SEC. 210. REGULATIONS.**

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

24               (1) subsections (a) through (n) of section 203;

25               (2) the amendment made by section 204; and

1           (3) any proclamation issued under section  
2       203(o).

3           **TITLE III—RELIEF FROM**  
4           **IMPORTS**

5       **SEC. 301. DEFINITIONS.**

6           In this title:

7           (1) CAFTA–DR ARTICLE.—The term  
8       “CAFTA–DR article” means an article that quali-  
9       fies as an originating good under section 203(b).

10          (2) CAFTA–DR TEXTILE OR APPAREL ARTI-  
11       CLE.—The term “CAFTA–DR textile or apparel ar-  
12       ticle” means a textile or apparel good (as defined in  
13       section 3(5)) that is a CAFTA–DR article.

14          (3) DE MINIMIS SUPPLYING COUNTRY.—

15               (A) Subject to subparagraph (B), the term  
16       “de minimis supplying country” means a  
17       CAFTA–DR country whose share of imports of  
18       the relevant CAFTA–DR article into the United  
19       States does not exceed 3 percent of the aggre-  
20       gate volume of imports of the relevant CAFTA–  
21       DR article in the most recent 12-month period  
22       for which data are available that precedes the  
23       filing of the petition under section 311(a).

24               (B) A CAFTA–DR country shall not be  
25       considered to be a de minimis supplying country

1 if the aggregate share of imports of the relevant  
 2 CAFTA–DR article into the United States of  
 3 all CAFTA–DR countries that satisfy the con-  
 4 ditions of subparagraph (A) exceeds 9 percent  
 5 of the aggregate volume of imports of the rel-  
 6 evant CAFTA–DR article during the applicable  
 7 12-month period.

8 (4) RELEVANT CAFTA–DR ARTICLE.—The term  
 9 “relevant CAFTA–DR article” means the CAFTA–  
 10 DR article with respect to which a petition has been  
 11 filed under section 311(a).

## 12 **Subtitle A—Relief From Imports** 13 **Benefiting From the Agreement**

### 14 **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

15 (a) FILING OF PETITION.—A petition requesting ac-  
 16 tion under this subtitle for the purpose of adjusting to  
 17 the obligations of the United States under the Agreement  
 18 may be filed with the Commission by an entity, including  
 19 a trade association, firm, certified or recognized union, or  
 20 group of workers, that is representative of an industry.  
 21 The Commission shall transmit a copy of any petition filed  
 22 under this subsection to the United States Trade Rep-  
 23 resentative.

24 (b) INVESTIGATION AND DETERMINATION.—Upon  
 25 the filing of a petition under subsection (a), the Commis-



1 sion, unless subsection (d) applies, shall promptly initiate  
 2 an investigation to determine whether, as a result of the  
 3 reduction or elimination of a duty provided for under the  
 4 Agreement, a CAFTA–DR article is being imported into  
 5 the United States in such increased quantities, in absolute  
 6 terms or relative to domestic production, and under such  
 7 conditions that imports of the CAFTA–DR article con-  
 8 stitute a substantial cause of serious injury or threat  
 9 thereof to the domestic industry producing an article that  
 10 is like, or directly competitive with, the imported article.

11 (c) APPLICABLE PROVISIONS.—The following provi-  
 12 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
 13 2252) apply with respect to any investigation initiated  
 14 under subsection (b):

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

17 (2) Subsection (c).

18 (3) Subsection (i).

19 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No  
 20 investigation may be initiated under this section with re-  
 21 spect to any CAFTA–DR article if, after the date that  
 22 the Agreement enters into force, import relief has been  
 23 provided with respect to that CAFTA–DR article under  
 24 this subtitle.

1 **SEC. 312. COMMISSION ACTION ON PETITION.**

2 (a) DETERMINATION.—Not later than 120 days after  
3 the date on which an investigation is initiated under sec-  
4 tion 311(b) with respect to a petition, the Commission  
5 shall make the determination required under that section.  
6 At that time, the Commission shall also determine whether  
7 any CAFTA–DR country is a de minimis supplying coun-  
8 try.

9 (b) APPLICABLE PROVISIONS.—For purposes of this  
10 subtitle, the provisions of paragraphs (1), (2), and (3) of  
11 section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
12 1330(d) (1), (2), and (3)) shall be applied with respect  
13 to determinations and findings made under this section  
14 as if such determinations and findings were made under  
15 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

16 (c) ADDITIONAL FINDING AND RECOMMENDATION IF  
17 DETERMINATION AFFIRMATIVE.—If the determination  
18 made by the Commission under subsection (a) with respect  
19 to imports of an article is affirmative, or if the President  
20 may consider a determination of the Commission to be an  
21 affirmative determination as provided for under paragraph  
22 (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
23 1330(d)), the Commission shall find, and recommend to  
24 the President in the report required under subsection (d),  
25 the amount of import relief that is necessary to remedy  
26 or prevent the injury found by the Commission in the de-

1 termination and to facilitate the efforts of the domestic  
2 industry to make a positive adjustment to import competi-  
3 tion. The import relief recommended by the Commission  
4 under this subsection shall be limited to the relief de-  
5 scribed in section 313(c). Only those members of the Com-  
6 mission who voted in the affirmative under subsection (a)  
7 are eligible to vote on the proposed action to remedy or  
8 prevent the injury found by the Commission. Members of  
9 the Commission who did not vote in the affirmative may  
10 submit, in the report required under subsection (d), sepa-  
11 rate views regarding what action, if any, should be taken  
12 to remedy or prevent the injury.

13 (d) REPORT TO PRESIDENT.—Not later than the  
14 date that is 30 days after the date on which a determina-  
15 tion is made under subsection (a) with respect to an inves-  
16 tigation, the Commission shall submit to the President a  
17 report that includes—

18 (1) the determination made under subsection  
19 (a) and an explanation of the basis for the deter-  
20 mination;

21 (2) if the determination under subsection (a) is  
22 affirmative, any findings and recommendations for  
23 import relief made under subsection (c) and an ex-  
24 planation of the basis for each recommendation; and

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

5       (e) PUBLIC NOTICE.—Upon submitting a report to  
6       the President under subsection (d), the Commission shall  
7       promptly make public such report (with the exception of  
8       information which the Commission determines to be con-  
9       fidential) and shall cause a summary thereof to be pub-  
10      lished in the Federal Register.

11   **SEC. 313. PROVISION OF RELIEF.**

12       (a) IN GENERAL.—Not later than the date that is  
13      30 days after the date on which the President receives the  
14      report of the Commission in which the Commission's de-  
15      termination under section 312(a) is affirmative, or which  
16      contains a determination under section 312(a) that the  
17      President considers to be affirmative under paragraph (1)  
18      of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
19      1330(d)(1)), the President, subject to subsection (b), shall  
20      provide relief from imports of the article that is the subject  
21      of such determination to the extent that the President de-  
22      termines necessary to remedy or prevent the injury found  
23      by the Commission and to facilitate the efforts of the do-  
24      mestic industry to make a positive adjustment to import  
25      competition.

1 (b) EXCEPTION.—The President is not required to  
 2 provide import relief under this section if the President  
 3 determines that the provision of the import relief will not  
 4 provide greater economic and social benefits than costs.

5 (c) NATURE OF RELIEF.—

6 (1) IN GENERAL.—The import relief that the  
 7 President is authorized to provide under this section  
 8 with respect to imports of an article is as follows:

9 (A) The suspension of any further reduc-  
 10 tion provided for under Annex 3.3 of the Agree-  
 11 ment in the duty imposed on such article.

12 (B) An increase in the rate of duty im-  
 13 posed on such article to a level that does not  
 14 exceed the lesser of—

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

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

22 (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
 23 riod for which import relief is provided under this  
 24 section is greater than 1 year, the President shall  
 25 provide for the progressive liberalization (described

1 in article 8.2.3 of the Agreement) of such relief at  
2 regular intervals during the period of its application.

3 (d) PERIOD OF RELIEF.—

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

8 (2) EXTENSION.—

9 (A) IN GENERAL.—If the initial period for  
10 any import relief provided under this section is  
11 less than 4 years, the President, after receiving  
12 a determination from the Commission under  
13 subparagraph (B) that is affirmative, or which  
14 the President considers to be affirmative under  
15 paragraph (1) of section 330(d) of the Tariff  
16 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-  
17 tend the effective period of any import relief  
18 provided under this section, subject to the limi-  
19 tation under paragraph (1), if the President de-  
20 termines that—

21 (i) the import relief continues to be  
22 necessary to remedy or prevent serious in-  
23 jury and to facilitate adjustment by the do-  
24 mestic industry to import competition; and

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

4                   (B) ACTION BY COMMISSION.—(i) Upon a  
5                   petition on behalf of the industry concerned  
6                   that is filed with the Commission not earlier  
7                   than the date which is 9 months, and not later  
8                   than the date which is 6 months, before the  
9                   date on which any action taken under sub-  
10                  section (a) is to terminate, the Commission  
11                  shall conduct an investigation to determine  
12                  whether action under this section continues to  
13                  be necessary to remedy or prevent serious in-  
14                  jury and whether there is evidence that the in-  
15                  dustry is making a positive adjustment to im-  
16                  port competition.

17                  (ii) The Commission shall publish notice of  
18                  the commencement of any proceeding under  
19                  this subparagraph in the Federal Register and  
20                  shall, within a reasonable time thereafter, hold  
21                  a public hearing at which the Commission shall  
22                  afford interested parties and consumers an op-  
23                  portunity to be present, to present evidence,  
24                  and to respond to the presentations of other

1 parties and consumers, and otherwise to be  
 2 heard.

3 (iii) The Commission shall transmit to the  
 4 President a report on its investigation and de-  
 5 termination under this subparagraph not later  
 6 than 60 days before the action under subsection  
 7 (a) is to terminate, unless the President speci-  
 8 fies a different date.

9 (e) RATE AFTER TERMINATION OF IMPORT RE-  
 10 LIEF.—When import relief under this section is termi-  
 11 nated with respect to an article—

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

19 (2) the rate of duty for that article after De-  
 20 cember 31 of the year in which termination occurs  
 21 shall be, at the discretion of the President, either—

22 (A) the applicable rate of duty for that ar-  
 23 ticle set out in the Schedule of the United  
 24 States to Annex 3.3 of the Agreement; or



1 (B) the rate of duty resulting from the  
 2 elimination of the tariff in equal annual stages  
 3 ending on the date set out in the Schedule of  
 4 the United States to Annex 3.3 of the Agree-  
 5 ment for the elimination of the tariff.

6 (f) ARTICLES EXEMPT FROM RELIEF.—No import  
 7 relief may be provided under this section on—

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

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

14 **SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

15 (a) GENERAL RULE.—Subject to subsection (b), no  
 16 import relief may be provided under this subtitle after the  
 17 date that is 10 years after the date on which the Agree-  
 18 ment enters into force.

19 (b) EXCEPTION.—If an article for which relief is pro-  
 20 vided under this subtitle is an article for which the period  
 21 for tariff elimination, set out in the Schedule of the United  
 22 States to Annex 3.3 of the Agreement, is greater than 10  
 23 years, no relief under this subtitle may be provided for  
 24 that article after the date on which that period ends.

1 **SEC. 315. COMPENSATION AUTHORITY.**

2 For purposes of section 123 of the Trade Act of 1974  
 3 (19 U.S.C. 2133), any import relief provided by the Presi-  
 4 dent under section 313 shall be treated as action taken  
 5 under chapter 1 of title II of such Act.

6 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

7 Section 202(a)(8) of the Trade Act of 1974 (19  
 8 U.S.C. 2252(a)(8)) is amended in the first sentence—

9 (1) by striking “and”; and

10 (2) by inserting before the period at the end “,  
 11 and title III of the Dominican Republic-Central  
 12 America-United States Free Trade Agreement Im-  
 13 plementation Act”.

14 **Subtitle B—Textile and Apparel**  
 15 **Safeguard Measures**

16 **SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

17 (a) IN GENERAL.—A request under this subtitle for  
 18 the purpose of adjusting to the obligations of the United  
 19 States under the Agreement may be filed with the Presi-  
 20 dent by an interested party. Upon the filing of a request,  
 21 the President shall review the request to determine, from  
 22 information presented in the request, whether to com-  
 23 mence consideration of the request.

24 (b) PUBLICATION OF REQUEST.—If the President de-  
 25 termines that the request under subsection (a) provides  
 26 the information necessary for the request to be considered,

1 the President shall cause to be published in the Federal  
2 Register a notice of commencement of consideration of the  
3 request, and notice seeking public comments regarding the  
4 request. The notice shall include a summary of the request  
5 and the dates by which comments and rebuttals must be  
6 received.

7 **SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

8 (a) DETERMINATION.—

9 (1) IN GENERAL.—If a positive determination is  
10 made under section 321(b), the President shall de-  
11 termine whether, as a result of the elimination of a  
12 duty under the Agreement, a CAFTA–DR textile or  
13 apparel article of a specified CAFTA–DR country is  
14 being imported into the United States in such in-  
15 creased quantities, in absolute terms or relative to  
16 the domestic market for that article, and under such  
17 conditions as to cause serious damage, or actual  
18 threat thereof, to a domestic industry producing an  
19 article that is like, or directly competitive with, the  
20 imported article.

21 (2) SERIOUS DAMAGE.—In making a deter-  
22 mination under paragraph (1), the President—

23 (A) shall examine the effect of increased  
24 imports on the domestic industry, as reflected  
25 in changes in such relevant economic factors as

1           output, productivity, utilization of capacity, in-  
 2           ventories, market share, exports, wages, em-  
 3           ployment, domestic prices, profits, and invest-  
 4           ment, none of which is necessarily decisive; and

5           (B) shall not consider changes in tech-  
 6           nology or consumer preference as factors sup-  
 7           porting a determination of serious damage or  
 8           actual threat thereof.

9           (3) DEADLINE FOR DETERMINATION.—The  
 10          President shall make the determination under para-  
 11          graph (1) no later than 30 days after the completion  
 12          of any consultations held pursuant to article 3.23.4  
 13          of the Agreement.

14          (b) PROVISION OF RELIEF.—

15           (1) IN GENERAL.—If a determination under  
 16          subsection (a) is affirmative, the President may pro-  
 17          vide relief from imports of the article that is the  
 18          subject of such determination, as provided in para-  
 19          graph (2), to the extent that the President deter-  
 20          mines necessary to remedy or prevent the serious  
 21          damage and to facilitate adjustment by the domestic  
 22          industry.

23           (2) NATURE OF RELIEF.—The relief that the  
 24          President is authorized to provide under this sub-  
 25          section with respect to imports of an article is an in-

1       crease in the rate of duty imposed on the article to  
2       a level that does not exceed the lesser of—

3               (A) the column 1 general rate of duty im-  
4               posed under the HTS on like articles at the  
5               time the import relief is provided; or

6               (B) the column 1 general rate of duty im-  
7               posed under the HTS on like articles on the  
8               day before the date on which the Agreement en-  
9               ters into force.

10 **SEC. 323. PERIOD OF RELIEF.**

11       (a) IN GENERAL.—Subject to subsection (b), any im-  
12       port relief that the President provides under subsection  
13       (b) of section 322 may not, in the aggregate, be in effect  
14       for more than 3 years.

15       (b) EXTENSION.—If the initial period for any import  
16       relief provided under section 322 is less than 3 years, the  
17       President may extend the effective period of any import  
18       relief provided under that section, subject to the limitation  
19       set forth in subsection (a), if the President determines  
20       that—

21               (1) the import relief continues to be necessary  
22               to remedy or prevent serious damage and to facili-  
23               tate adjustment by the domestic industry to import  
24               competition; and

1           (2) there is evidence that the industry is mak-  
2           ing a positive adjustment to import competition.

3 **SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

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

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

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

10                   (A) subtitle A; or

11                   (B) chapter 1 of title II of the Trade Act  
12                   of 1974.

13 **SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

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

18 **SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

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

22 **SEC. 327. COMPENSATION AUTHORITY.**

23           For purposes of section 123 of the Trade Act of 1974  
24 (19 U.S.C. 2133), any import relief provided by the Presi-

1 dent under this subtitle shall be treated as action taken  
 2 under chapter 1 of title II of that Act.

3 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

4       The President may not release information received  
 5 in connection with a review under this subtitle which the  
 6 President considers to be confidential business informa-  
 7 tion unless the party submitting the confidential business  
 8 information had notice, at the time of submission, that  
 9 such information would be released by the President, or  
 10 such party subsequently consents to the release of the in-  
 11 formation. To the extent a party submits confidential busi-  
 12 ness information, it shall also provide a nonconfidential  
 13 version of the information in which the confidential busi-  
 14 ness information is summarized or, if necessary, deleted.

15 **Subtitle C—Cases Under Title II of**  
 16 **the Trade Act of 1974**

17 **SEC. 331. FINDINGS AND ACTION ON GOODS OF CAFTA-DR**  
 18 **COUNTRIES.**

19       (a) EFFECT OF IMPORTS.—If, in any investigation  
 20 initiated under chapter 1 of title II of the Trade Act of  
 21 1974, the Commission makes an affirmative determination  
 22 (or a determination which the President may treat as an  
 23 affirmative determination under such chapter by reason  
 24 of section 330(d) of the Tariff Act of 1930), the Commis-  
 25 sion shall also find (and report to the President at the

1 time such injury determination is submitted to the Presi-  
 2 dent) whether imports of the article of each CAFTA–DR  
 3 country that qualify as originating goods under section  
 4 203(b) are a substantial cause of serious injury or threat  
 5 thereof.

6 (b) PRESIDENTIAL DETERMINATION REGARDING IM-  
 7 PORTS OF CAFTA–DR COUNTRIES.—In determining the  
 8 nature and extent of action to be taken under chapter 1  
 9 of title II of the Trade Act of 1974, the President may  
 10 exclude from the action goods of a CAFTA–DR country  
 11 with respect to which the Commission has made a negative  
 12 finding under subsection (a).

## 13 **TITLE IV—MISCELLANEOUS**

### 14 **SEC. 401. ELIGIBLE PRODUCTS.**

15 Section 308(4)(A) of the Trade Agreements Act of  
 16 1979 (19 U.S.C. 2518(4)(A)) is amended—

17 (1) by striking “or” at the end of clause (ii);

18 (2) by striking the period at the end of clause

19 (iii) and inserting “; or”; and

20 (3) by adding at the end the following new  
 21 clause:

22 “(iv) a party to the Dominican Re-  
 23 public-Central America-United States Free  
 24 Trade Agreement, a product or service of  
 25 that country or instrumentality which is



1 covered under that Agreement for procure-  
 2 ment by the United States.”.

3 **SEC. 402. MODIFICATIONS TO THE CARIBBEAN BASIN ECO-**  
 4 **NOMIC RECOVERY ACT.**

5 (a) FORMER BENEFICIARY COUNTRIES.—Section  
 6 212(a)(1) of the Caribbean Basin Economic Recovery Act  
 7 (19 U.S.C. 2702(a)(1)) is amended by adding at the end  
 8 the following new subparagraph:

9 “(F) The term ‘former beneficiary country’  
 10 means a country that ceases to be designated as  
 11 a beneficiary country under this title because  
 12 the country has become a party to a free trade  
 13 agreement with the United States.”.

14 (b) COUNTRIES ELIGIBLE FOR DESIGNATION AS  
 15 BENEFICIARY COUNTRIES.—Section 212(b) of the Carib-  
 16 bean Basin Economic Recovery Act (19 U.S.C. 2702(b))  
 17 is amended by striking from the list of countries eligible  
 18 for designation as beneficiary countries—

19 (1) “Costa Rica”, effective on the date the  
 20 President terminates the designation of Costa Rica  
 21 as a beneficiary country pursuant to section  
 22 201(a)(3);

23 (2) “Dominican Republic”, effective on the date  
 24 the President terminates the designation of the Do-

1 minican Republic as a beneficiary country pursuant  
 2 to section 201(a)(3);

3 (3) “El Salvador”, effective on the date the  
 4 President terminates the designation of El Salvador  
 5 as a beneficiary country pursuant to section  
 6 201(a)(3);

7 (4) “Guatemala”, effective on the date the  
 8 President terminates the designation of Guatemala  
 9 as a beneficiary country pursuant to section  
 10 201(a)(3);

11 (5) “Honduras”, effective on the date the Presi-  
 12 dent terminates the designation of Honduras as a  
 13 beneficiary country pursuant to section 201(a)(3);  
 14 and

15 (6) “Nicaragua”, effective on the date the  
 16 President terminates the designation of Nicaragua  
 17 as a beneficiary country pursuant to section  
 18 201(a)(3).

19 (c) MATERIALS OF, OR PROCESSING IN, FORMER  
 20 BENEFICIARY COUNTRIES.—Section 213(a)(1) of the Car-  
 21 ibbean Basin Economic Recovery Act (19 U.S.C.  
 22 2703(a)(1)) is amended by striking “the Commonwealth  
 23 of Puerto Rico and the United States Virgin Islands” and  
 24 inserting “the Commonwealth of Puerto Rico, the United

1 States Virgin Islands, and any former beneficiary coun-  
 2 try”.

3 (d) DEFINITIONS AND SPECIAL RULES.—Section  
 4 213(b)(5) of the Caribbean Basin Economic Recovery Act  
 5 (19 U.S.C. 2703(b)(5)) is amended by adding at the end  
 6 the following new subparagraphs:

7 “(G) FORMER CBTPA BENEFICIARY COUN-  
 8 TRY.—The term ‘former CBTPA beneficiary  
 9 country’ means a country that ceases to be des-  
 10 ignated as a CBTPA beneficiary country under  
 11 this title because the country has become a  
 12 party to a free trade agreement with the United  
 13 States.

14 “(H) ARTICLES THAT UNDERGO PRODUC-  
 15 TION IN A CBTPA BENEFICIARY COUNTRY AND  
 16 A FORMER CBTPA BENEFICIARY COUNTRY.—(i)  
 17 For purposes of determining the eligibility of an  
 18 article for preferential treatment under para-  
 19 graph (2) or (3), references in either such para-  
 20 graph, and in subparagraph (C) of this para-  
 21 graph to—

22 “(I) a ‘CBTPA beneficiary country’  
 23 shall be considered to include any former  
 24 CPTPA beneficiary country, and

1 “(II) ‘CBTPA beneficiary countries’  
 2 shall be considered to include former  
 3 CBTPA beneficiary countries,  
 4 if the article, or a good used in the production  
 5 of the article, undergoes production in a  
 6 CBTPA beneficiary country.

7 “(ii) An article that is eligible for pref-  
 8 erential treatment under clause (i) shall not be  
 9 ineligible for such treatment because the article  
 10 is imported directly from a former CBTPA ben-  
 11 eficiary country.

12 “(iii) Notwithstanding clauses (i) and (ii),  
 13 an article that is a good of a former CBTPA  
 14 beneficiary country for purposes of section 304  
 15 of the Tariff Act of 1930 (19 U.S.C. 1304) or  
 16 section 334 of the Uruguay Round Agreements  
 17 Act (19 U.S.C. 3592), as the case may be, shall  
 18 not be eligible for preferential treatment under  
 19 paragraph (2) or (3), unless—

20 “(I) it is an article that is a good of  
 21 the Dominican Republic under either such  
 22 section 304 or 334; and

23 “(II) the article, or a good used in the  
 24 production of the article, undergoes pro-  
 25 duction in Haiti.”.

1 **SEC. 403. PERIODIC REPORTS AND MEETINGS ON LABOR**  
 2 **OBLIGATIONS AND LABOR CAPACITY-BUILD-**  
 3 **ING PROVISIONS.**

4 (a) REPORTS TO CONGRESS.—

5 (1) IN GENERAL.—Not later than the end of  
 6 the 2-year period beginning on the date the Agree-  
 7 ment enters into force, and not later than the end  
 8 of each 2-year period thereafter during the suc-  
 9 ceeding 14-year period, the President shall report to  
 10 the Congress on the progress made by the CAFTA-  
 11 DR countries in—

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

14 (B) implementing the White Paper.

15 (2) WHITE PAPER.—In this section, the term  
 16 “White Paper” means the report of April 2005 of  
 17 the Working Group of the Vice Ministers Respon-  
 18 sible for Trade and Labor in the Countries of Cen-  
 19 tral America and the Dominican Republic entitled  
 20 “The Labor Dimension in Central America and the  
 21 Dominican Republic - Building on Progress:  
 22 Strengthening Compliance and Enhancing Capac-  
 23 ity”.

24 (3) CONTENTS OF REPORTS.—Each report  
 25 under paragraph (1) shall include the following:

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

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

13 (C) A description of the work done by the  
14 CAFTA–DR countries with the International  
15 Labor Organization to implement the rec-  
16 ommendations contained in the White Paper,  
17 and the efforts of the CAFTA–DR countries  
18 with international organizations, through the  
19 Labor Cooperation and Capacity Building  
20 Mechanism referred to in subparagraph (A), to  
21 advance common commitments regarding labor  
22 matters.

23 (D) A summary of public comments re-  
24 ceived on—

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

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

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

(4) SOLICITATION OF PUBLIC COMMENTS.—The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

(b) PERIODIC MEETINGS OF SECRETARY OF LABOR WITH LABOR MINISTERS OF CAFTA–DR COUNTRIES.—

(1) PERIODIC MEETINGS.—The Secretary of Labor should take the necessary steps to meet periodically with the labor ministers of the CAFTA–DR countries to discuss—

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

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

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

10 (D) such other matters as the Secretary of  
 11 Labor and the labor ministers consider appro-  
 12 priate.

13 (2) INCLUSION IN BIENNIAL REPORTS.—The  
 14 President shall include in each report under sub-  
 15 section (a), as the President deems appropriate,  
 16 summaries of the meetings held pursuant to para-  
 17 graph (1).

Passed the Senate June 30, 2005.

Attest:

*Secretary.*



109TH CONGRESS  
1ST SESSION  
**S. 1307**

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**AN ACT**

To implement the Dominican Republic-Central  
America-United States Free Trade Agreement.