

109TH CONGRESS  
1ST SESSION

# S. 1937

To expand certain preferential trade treatment for Haiti.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Mr. DEWINE (for himself, Mr. NELSON of Florida, Mr. LUGAR, Mr. BIDEN, Mr. COLEMAN, Mr. DODD, Mr. HAGEL, Mr. DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Mr. MARTINEZ, Mr. BINGAMAN, Mr. SUNUNU, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. CHAFEE, Mr. VOINOVICH, and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To expand certain preferential trade treatment for Haiti.

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

2       “(a) IN GENERAL.—In addition to any other pref-  
3 erential treatment under this Act, beginning on October  
4 1, 2004, and in each of the 7 succeeding 1-year periods,  
5 apparel articles described in subsection (b) that are im-  
6 ported directly into the customs territory of the United  
7 States from Haiti shall enter the United States free of  
8 duty, subject to the limitations described in subsections  
9 (b) and (c), if Haiti has satisfied the requirements and  
10 conditions set forth in subsections (d) and (e).

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

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

19               “(1) during the 12-month period beginning on  
20       October 1, 2004, to a quantity of apparel articles  
21       that is equal to 1.5 percent of the aggregate square  
22       meter equivalents of all apparel articles imported  
23       into the United States during the 12-month period  
24       beginning October 1, 2003; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(F) Haiti agrees to report, on a timely  
4           basis, at the request of the Bureau of Customs  
5           and Border Protection, documentation estab-  
6           lishing the country of origin of articles de-  
7           scribed in subsection (b) as used by that coun-  
8           try in implementing an effective visa system.

9           “(2) DEFINITIONS.—In this subsection:

10           “(A) CIRCUMVENTION.—The term ‘cir-  
11           cumvention’ means any action involving the  
12           provision of a false declaration or false informa-  
13           tion for the purpose of, or with the effect of,  
14           violating or evading existing customs, country  
15           of origin labeling, or trade laws of the United  
16           States or Haiti relating to imports of textile  
17           and apparel goods, if such action results—

18                   “(i) in the avoidance of tariffs,  
19                   quotas, embargoes, prohibitions, restric-  
20                   tions, trade remedies, including anti-  
21                   dumping or countervailing duties, or safe-  
22                   guard measures; or

23                   “(ii) in obtaining preferential tariff  
24                   treatment.

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

4           (b) EFFECTIVE DATE.—

5           (1) IN GENERAL.—The amendment made by  
6           subsection (a) applies with respect to goods entered,  
7           or withdrawn from warehouse for consumption, on  
8           or after October 1, 2004.

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

18                 (A) that was made on or after October 1,  
19                 2004, and before the date of the enactment of  
20                 this Act, and

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

- 1 such amendment applied to such entry or with-
- 2 drawal.

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