

109TH CONGRESS  
1ST SESSION

# H. R. 3045

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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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 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

1 through the reduction and elimination of barriers to  
2 trade in goods and services and to investment; and  
3 (4) to lay the foundation for further coopera-  
4 tion to expand and enhance the benefits of the  
5 Agreement.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

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

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

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

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

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

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

4 (E) Honduras, for such time as the Agree-  
5 ment is in force between the United States and  
6 Honduras; and

7 (F) Nicaragua, for such time as the Agree-  
8 ment is in force between the United States and  
9 Nicaragua.

10 (3) COMMISSION.—The term “Commission”  
11 means the United States International Trade Com-  
12 mission.

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

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

1 **TITLE I—APPROVAL OF, AND**  
2 **GENERAL PROVISIONS RE-**  
3 **LATING TO, THE AGREEMENT**

4 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**  
5 **AGREEMENT.**

6 (a) APPROVAL OF AGREEMENT AND STATEMENT OF  
7 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of  
8 the Bipartisan Trade Promotion Authority Act of 2002  
9 (19 U.S.C. 3805) and section 151 of the Trade Act of  
10 1974 (19 U.S.C. 2191), the Congress approves—

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

17 (2) the statement of administrative action pro-  
18 posed to implement the Agreement that was sub-  
19 mitted to the Congress on June 23, 2005.

20 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE  
21 AGREEMENT.—At such time as the President determines  
22 that countries listed in subsection (a)(1) have taken meas-  
23 ures necessary to comply with the provisions of the Agree-  
24 ment that are to take effect on the date on which the  
25 Agreement enters into force, the President is authorized

1 to provide for the Agreement to enter into force with re-  
2 spect to those countries that provide for the Agreement  
3 to enter into force for them.

4 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
5 **STATES AND STATE LAW.**

6 (a) RELATIONSHIP OF AGREEMENT TO UNITED  
7 STATES LAW.—

8 (1) UNITED STATES LAW TO PREVAIL IN CON-  
9 FFLICT.—No provision of the Agreement, nor the ap-  
10 plication of any such provision to any person or cir-  
11 cumstance, which is inconsistent with any law of the  
12 United States shall have effect.

13 (2) CONSTRUCTION.—Nothing in this Act shall  
14 be construed—

15 (A) to amend or modify any law of the  
16 United States, or

17 (B) to limit any authority conferred under  
18 any law of the United States,  
19 unless specifically provided for in this Act.

20 (b) RELATIONSHIP OF AGREEMENT TO STATE  
21 LAW.—

22 (1) LEGAL CHALLENGE.—No State law, or the  
23 application thereof, may be declared invalid as to  
24 any person or circumstance on the ground that the  
25 provision or application is inconsistent with the

1 Agreement, except in an action brought by the  
2 United States for the purpose of declaring such law  
3 or application invalid.

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

6 (A) any law of a political subdivision of a  
7 State; and

8 (B) any State law regulating or taxing the  
9 business of insurance.

10 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-  
11 VATE REMEDIES.—No person other than the United  
12 States—

13 (1) shall have any cause of action or defense  
14 under the Agreement or by virtue of congressional  
15 approval thereof; or

16 (2) may challenge, in any action brought under  
17 any provision of law, any action or inaction by any  
18 department, agency, or other instrumentality of the  
19 United States, any State, or any political subdivision  
20 of a State, on the ground that such action or inac-  
21 tion is inconsistent with the Agreement.

22 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**  
23 **ENTRY INTO FORCE AND INITIAL REGULA-**  
24 **TIONS.**

25 (a) IMPLEMENTING ACTIONS.—

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

3                   (A) the President may proclaim such ac-  
4                   tions, and

5                   (B) other appropriate officers of the  
6                   United States Government may issue such reg-  
7                   ulations,

8           as may be necessary to ensure that any provision of  
9           this Act, or amendment made by this Act, that takes  
10          effect on the date the Agreement enters into force  
11          is appropriately implemented on such date, but no  
12          such proclamation or regulation may have an effec-  
13          tive date earlier than the date the Agreement enters  
14          into force.

15          (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED  
16          ACTIONS.—Any action proclaimed by the President  
17          under the authority of this Act that is not subject  
18          to the consultation and layover provisions under sec-  
19          tion 104 may not take effect before the 15th day  
20          after the date on which the text of the proclamation  
21          is published in the Federal Register.

22          (3) WAIVER OF 15-DAY RESTRICTION.—The 15-  
23          day restriction contained in paragraph (2) on the  
24          taking effect of proclaimed actions is waived to the  
25          extent that the application of such restriction would

1 prevent the taking effect on the date the Agreement  
2 enters into force of any action proclaimed under this  
3 section.

4 (b) INITIAL REGULATIONS.—Initial regulations nec-  
5 essary or appropriate to carry out the actions required by  
6 or authorized under this Act or proposed in the statement  
7 of administrative action submitted under section  
8 101(a)(2) to implement the Agreement shall, to the max-  
9 imum extent feasible, be issued within 1 year after the  
10 date on which the Agreement enters into force. In the case  
11 of any implementing action that takes effect on a date  
12 after the date on which the Agreement enters into force,  
13 initial regulations to carry out that action shall, to the  
14 maximum extent feasible, be issued within 1 year after  
15 such effective date.

16 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**  
17 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**  
18 **TIONS.**

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

23 (1) the President has obtained advice regarding  
24 the proposed action from—

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

4 (B) the Commission;

5 (2) the President has submitted to the Com-  
6 mittee on Finance of the Senate and the Committee  
7 on Ways and Means of the House of Representatives  
8 a report that sets forth—

9 (A) the action proposed to be proclaimed  
10 and the reasons therefor; and

11 (B) the advice obtained under paragraph  
12 (1);

13 (3) a period of 60 calendar days, beginning on  
14 the first day on which the requirements set forth in  
15 paragraphs (1) and (2) have been met has expired;  
16 and

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

20 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
21 **CEEDINGS.**

22 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—  
23 The President is authorized to establish or designate with-  
24 in the Department of Commerce an office that shall be  
25 responsible for providing administrative assistance to pan-

1 els established under chapter 20 of the Agreement. The  
2 office may not be considered to be an agency for purposes  
3 of section 552 of title 5, United States Code.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated for each fiscal year after  
6 fiscal year 2005 to the Department of Commerce such  
7 sums as may be necessary for the establishment and oper-  
8 ations of the office established or designated under sub-  
9 section (a) and for the payment of the United States share  
10 of the expenses of panels established under chapter 20 of  
11 the Agreement.

12 **SEC. 106. ARBITRATION OF CLAIMS.**

13 The United States is authorized to resolve any claim  
14 against the United States covered by article  
15 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agree-  
16 ment, pursuant to the Investor-State Dispute Settlement  
17 procedures set forth in section B of chapter 10 of the  
18 Agreement.

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

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

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

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

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

## 11 **TITLE II—CUSTOMS PROVISIONS**

### 12 **SEC. 201. TARIFF MODIFICATIONS.**

13 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
 14 AGREEMENT.—

15 (1) PROCLAMATION AUTHORITY.—The Presi-  
 16 dent may proclaim—

17 (A) such modifications or continuation of  
 18 any duty,

19 (B) such continuation of duty-free or ex-  
 20 cise treatment, or

21 (C) such additional duties,

22 as the President determines to be necessary or ap-  
 23 propriate to carry out or apply articles 3.3, 3.5, 3.6,  
 24 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27,  
 25 and 3.28 of the Agreement.

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

8           (3) EFFECT ON CBERA STATUS.—

9           (A) IN GENERAL.—Notwithstanding sec-  
10      tion 212(a) of the Caribbean Basin Economic  
11      Recovery Act (19 U.S.C. 2702(a)), the Presi-  
12      dent shall terminate the designation of each  
13      CAFTA–DR country as a beneficiary country  
14      for purposes of that Act on the date the Agree-  
15      ment enters into force with respect to that  
16      country.

17          (B) EXCEPTION.—Notwithstanding sub-  
18      paragraph (A), each such country shall be con-  
19      sidered a beneficiary country under section  
20      212(a) of the Caribbean Basin Economic Re-  
21      covery Act, for purposes of—

22              (i) sections 771(7)(G)(ii)(III) and  
23              771(7)(H) of the Tariff Act of 1930 (19  
24              U.S.C. 1677(7)(G)(ii)(III) and  
25              1677(7)(H));

1 (ii) the duty-free treatment provided  
2 under paragraph 12 of Appendix I of the  
3 General Notes to the Schedule of the  
4 United States to Annex 3.3 of the Agree-  
5 ment; and

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

8 (b) OTHER TARIFF MODIFICATIONS.—Subject to the  
9 consultation and layover provisions of section 104, the  
10 President may proclaim—

11 (1) such modifications or continuation of any  
12 duty,

13 (2) such modifications as the United States  
14 may agree to with a CAFTA–DR country regarding  
15 the staging of any duty treatment set forth in Annex  
16 3.3 of the Agreement,

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

19 (4) such additional duties,  
20 as the President determines to be necessary or appropriate  
21 to maintain the general level of reciprocal and mutually  
22 advantageous concessions provided for by the Agreement.

23 (c) CONVERSION TO AD VALOREM RATES.—For pur-  
24 poses of subsections (a) and (b), with respect to any good  
25 for which the base rate in the Schedule of the United

1 States to Annex 3.3 of the Agreement is a specific or com-  
 2 pound rate of duty, the President may substitute for the  
 3 base rate an ad valorem rate that the President deter-  
 4 mines to be equivalent to the base rate.

5 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**  
 6 **TURAL GOODS.**

7 (a) GENERAL PROVISIONS.—

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

11 (2) APPLICABLE NTR (MFN) RATE OF DUTY.—  
 12 For purposes of subsection (b), the term “applicable  
 13 NTR (MFN) rate of duty” means, with respect to  
 14 a safeguard good, a rate of duty that is the lesser  
 15 of—

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

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

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

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

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

10                (B) that qualifies as an originating good  
11 under section 203, except that operations per-  
12 formed in or material obtained from the United  
13 States shall be considered as if the operations  
14 were performed in, and the material was ob-  
15 tained from, a country that is not a party to  
16 the Agreement; and

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

19           (5) EXCEPTIONS.—No additional duty shall be  
20 assessed on a good under subsection (b) if, at the  
21 time of entry, the good is subject to import relief  
22 under—

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

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

1           (6) TERMINATION.—The assessment of an ad-  
2           ditional duty on a good under subsection (b) shall  
3           cease to apply to that good on the date on which  
4           duty-free treatment must be provided to that good  
5           under the Schedule of the United States to Annex  
6           3.3 of the Agreement.

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

15          (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

16               (1) IN GENERAL.—In addition to any duty pro-  
17               claimed under subsection (a) or (b) of section 201,  
18               and subject to subsection (a), the Secretary of the  
19               Treasury shall assess a duty, in the amount deter-  
20               mined under paragraph (2), on a safeguard good of  
21               a CAFTA–DR country imported into the United  
22               States in a calendar year if the Secretary determines  
23               that, prior to such importation, the total volume of  
24               that safeguard good of such country that is imported  
25               into the United States in that calendar year exceeds

1 130 percent of the volume that is set out for that  
2 safeguard good in the corresponding year in the  
3 table for that country contained in Appendix I of the  
4 General Notes to the Schedule of the United States  
5 to Annex 3.3 of the Agreement. For purposes of this  
6 subsection, year 1 in that table corresponds to the  
7 calendar year in which the Agreement enters into  
8 force.

9 (2) CALCULATION OF ADDITIONAL DUTY.—The  
10 additional duty on a safeguard good under this sub-  
11 section shall be—

12 (A) in the case of a good classified under  
13 subheading 1202.10.80, 1202.20.80,  
14 2008.11.15, 2008.11.35, or 2008.11.60 of the  
15 HTS—

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

20 (ii) in years 6 through 10, an amount  
21 equal to 75 percent of the excess of the ap-  
22 plicable NTR (MFN) rate of duty over the  
23 schedule rate of duty; and

24 (iii) in years 11 through 14, an  
25 amount equal to 50 percent of the excess

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

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

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

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

(iii) in years 18 and 19, an amount  
equal to 50 percent of the excess of the 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.

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

7       (b) ORIGINATING GOODS.—For purposes of this Act  
8       and for purposes of implementing the preferential tariff  
9       treatment provided for under the Agreement, except as  
10      otherwise provided in this section, a good is an originating  
11      good if—

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

15           (2) the good—

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

19                   (i) each of the nonoriginating mate-  
20      rials used in the production of the good  
21      undergoes an applicable change in tariff  
22      classification specified in Annex 4.1 of the  
23      Agreement; or

24                   (ii) the good otherwise satisfies any  
25      applicable regional value-content or other

1 requirements specified in Annex 4.1 of the  
 2 Agreement; and

3 (B) satisfies all other applicable require-  
 4 ments of this section; or

5 (3) the good is produced entirely in the terri-  
 6 tory of one or more of the CAFTA–DR countries,  
 7 exclusively from materials described in paragraph  
 8 (1) or (2).

9 (c) REGIONAL VALUE-CONTENT.—

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

18 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

12 (3) BUILD-UP 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-up method:

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

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) VOM.—The term “VOM” means  
 23 the value of originating materials that are

1                   acquired or self-produced, and used by the  
2                   producer in the production of the good.

3                   (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
4                   GOODS.—

5                   (A) IN GENERAL.—For purposes of sub-  
6                   section (b)(2), the regional value-content of an  
7                   automotive good referred to in Annex 4.1 of the  
8                   Agreement may be calculated by the importer,  
9                   exporter, or producer of the good, on the basis  
10                  of the following net cost method:

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

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

12                  (i) AUTOMOTIVE GOOD.—The term  
13                  “automotive good” means a good provided  
14                  for in any of subheadings 8407.31 through  
15                  8407.34, subheading 8408.20, heading  
16                  8409, or in any of headings 8701 through  
17                  8708.

18                  (ii) RVC.—The term “RVC” means  
19                  the regional value-content of the auto-  
20                  motive good, expressed as a percentage.

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

23                  (iv) VNM.—The term “VNM” means  
24                  the value of nonoriginating materials that

1 are acquired and used by the producer in  
2 the production of the automotive good, but  
3 does not include the value of a material  
4 that is self-produced.

5 (C) MOTOR VEHICLES.—

6 (i) BASIS OF CALCULATION.—For  
7 purposes of determining the regional value-  
8 content under subparagraph (A) for an  
9 automotive good that is a motor vehicle  
10 provided for in any of headings 8701  
11 through 8705, an importer, exporter, or  
12 producer may average the amounts cal-  
13 culated under the formula contained in  
14 subparagraph (A), over the producer's fis-  
15 cal year—

16 (I) with respect to all motor vehi-  
17 cles in any 1 of the categories de-  
18 scribed in clause (ii); or

19 (II) with respect to all motor ve-  
20 hicles in any such category that are  
21 exported to the territory of one or  
22 more of the CAFTA–DR countries.

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

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

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

14 (III) is the same model line of  
15 motor vehicles produced in the terri-  
16 tory of a CAFTA–DR country as the  
17 good described in clause (i) for which  
18 regional value-content is being cal-  
19 culated.

20 (D) OTHER AUTOMOTIVE GOODS.—For  
21 purposes of determining the regional value-con-  
22 tent under subparagraph (A) for automotive  
23 goods provided for in any of subheadings  
24 8407.31 through 8407.34, in subheading  
25 8408.20, or in heading 8409, 8706, 8707, or

1 8708, that are produced in the same plant, an  
2 importer, exporter, or producer may—

3 (i) average the amounts calculated  
4 under the formula contained in subpara-  
5 graph (A) over—

6 (I) the fiscal year of the motor  
7 vehicle producer to whom the auto-  
8 motive goods are sold,

9 (II) any quarter or month, or

10 (III) its own fiscal year,  
11 if the goods were produced during the fis-  
12 cal year, quarter, or month that is the  
13 basis for the calculation;

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

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

21 (E) CALCULATING NET COST.—The im-  
22 porter, exporter, or producer shall, consistent  
23 with the provisions regarding allocation of costs  
24 set out in generally accepted accounting prin-

1           ciples, determine the net cost of an automotive  
2           good under subparagraph (B) by—

3                   (i) calculating the total cost incurred  
4                   with respect to all goods produced by the  
5                   producer of the automotive good, sub-  
6                   tracting any sales promotion, marketing  
7                   and after-sales service costs, royalties,  
8                   shipping and packing costs, and nonallow-  
9                   able interest costs that are included in the  
10                  total cost of all such goods, and then rea-  
11                  sonably allocating the resulting net cost of  
12                  those goods to the automotive good;

13                  (ii) calculating the total cost incurred  
14                  with respect to all goods produced by that  
15                  producer, reasonably allocating the total  
16                  cost to the automotive good, and then sub-  
17                  tracting any sales promotion, marketing  
18                  and after-sales service costs, royalties,  
19                  shipping and packing costs, and nonallow-  
20                  able interest costs that are included in the  
21                  portion of the total cost allocated to the  
22                  automotive good; or

23                  (iii) reasonably allocating each cost  
24                  that forms part of the total cost incurred  
25                  with respect to the automotive good so that

1 the aggregate of all such costs does not in-  
2 clude any sales promotion, marketing and  
3 after-sales service costs, royalties, shipping  
4 and packing costs, or nonallowable interest  
5 costs.

6 (d) VALUE OF MATERIALS.—

7 (1) IN GENERAL.—For the purpose of calcu-  
8 lating the regional value-content of a good under  
9 subsection (c), and for purposes of applying the de  
10 minimis rules under subsection (f), the value of a  
11 material is—

12 (A) in the case of a material that is im-  
13 ported by the producer of the good, the ad-  
14 justed value of the material;

15 (B) in the case of a material acquired in  
16 the territory in which the good is produced, the  
17 value, determined in accordance with Articles 1  
18 through 8, Article 15, and the corresponding in-  
19 terpretive notes of the Agreement on Implemen-  
20 tation of Article VII of the General Agreement  
21 on Tariffs and Trade 1994 referred to in sec-  
22 tion 101(d)(8) of the Uruguay Round Agree-  
23 ments Act, as set forth in regulations promul-  
24 gated by the Secretary of the Treasury pro-

1           viding for the application of such Articles in the  
2           absence of an importation; or

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

5                   (i) all expenses incurred in the pro-  
6                   duction of the material, including general  
7                   expenses; and

8                   (ii) an amount for profit equivalent to  
9                   the profit added in the normal course of  
10                  trade.

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

13           (A) ORIGINATING MATERIAL.—The fol-  
14           lowing expenses, if not included in the value of  
15           an originating material calculated under para-  
16           graph (1), may be added to the value of the  
17           originating material:

18                   (i) The costs of freight, insurance,  
19                   packing, and all other costs incurred in  
20                   transporting the material within or be-  
21                   tween the territory of one or more of the  
22                   CAFTA–DR countries to the location of  
23                   the producer.

24                   (ii) Duties, taxes, and customs broker-  
25                   age fees on the material paid in the terri-

1 tory of one or more of the CAFTA–DR  
2 countries, other than duties or taxes that  
3 are waived, refunded, refundable, or other-  
4 wise recoverable, including credit against  
5 duty or tax paid or payable.

6 (iii) The cost of waste and spoilage re-  
7 sulting from the use of the material in the  
8 production of the good, less the value of  
9 renewable scrap or byproducts.

10 (B) NONORIGINATING MATERIAL.—The  
11 following expenses, if included in the value of a  
12 nonoriginating material calculated under para-  
13 graph (1), may be deducted from the value of  
14 the nonoriginating material:

15 (i) The costs of freight, insurance,  
16 packing, and all other costs incurred in  
17 transporting the material within or be-  
18 tween the territory of one or more of the  
19 CAFTA–DR countries to the location of  
20 the producer.

21 (ii) Duties, taxes, and customs broker-  
22 age fees on the material paid in the terri-  
23 tory of one or more of the CAFTA–DR  
24 countries, other than duties or taxes that  
25 are waived, refunded, refundable, or other-

1                   wise recoverable, including credit against  
2                   duty or tax paid or payable.

3                   (iii) The cost of waste and spoilage re-  
4                   sulting from the use of the material in the  
5                   production of the good, less the value of  
6                   renewable scrap or byproducts.

7                   (iv) The cost of originating materials  
8                   used in the production of the nonorigi-  
9                   nating material in the territory of one or  
10                  more of the CAFTA–DR countries.

11               (e) ACCUMULATION.—

12               (1) ORIGINATING MATERIALS USED IN PRODUC-  
13               TION OF GOODS OF ANOTHER COUNTRY.—Orig-  
14               inating materials from the territory of one or more  
15               of the CAFTA–DR countries that are used in the  
16               production of a good in the territory of another  
17               CAFTA–DR country shall be considered to originate  
18               in the territory of that other country.

19               (2) MULTIPLE PROCEDURES.—A good that is  
20               produced in the territory of one or more of the  
21               CAFTA–DR countries by 1 or more producers is an  
22               originating good if the good satisfies the require-  
23               ments of subsection (b) and all other applicable re-  
24               quirements of this section.

1 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
2 TERIALS.—

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

7 (A) the value of all nonoriginating mate-  
8 rials that—

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

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

14 does not exceed 10 percent of the adjusted  
15 value of the good;

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

18 (C) the value of such nonoriginating mate-  
19 rials is included in the value of nonoriginating  
20 materials for any applicable regional value-con-  
21 tent requirement for the good.

22 (2) EXCEPTIONS.—Paragraph (1) does not  
23 apply to the following:

24 (A) A nonoriginating material provided for  
25 in chapter 4, or a nonoriginating dairy prepara-

tion containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

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

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

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

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

(iv) Goods provided for in heading 2105.

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

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

4 (C) A nonoriginating material provided for  
5 in heading 0805, or any of subheadings  
6 2009.11 through 2009.39, that is used in the  
7 production of a good provided for in any of sub-  
8 headings 2009.11 through 2009.39, or in fruit  
9 or vegetable juice of any single fruit or vege-  
10 table, fortified with minerals or vitamins, con-  
11 centrated or unconcentrated, provided for in  
12 subheading 2106.90 or 2202.90.

13 (D) A nonoriginating material provided for  
14 in heading 0901 or 2101 that is used in the  
15 production of a good provided for in heading  
16 0901 or 2101.

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

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

24 (G) A nonoriginating material provided for  
25 in heading 1701 that is used in the production

1 of a good provided for in any of headings 1701  
2 through 1703.

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

6 (I) Except as provided in subparagraphs  
7 (A) through (H) and Annex 4.1 of the Agree-  
8 ment, a nonoriginating material used in the  
9 production of a good provided for in any of  
10 chapters 1 through 24, unless the nonorigi-  
11 nating material is provided for in a different  
12 subheading than the good for which origin is  
13 being determined under this section.

14 (3) TEXTILE OR APPAREL GOODS.—

15 (A) IN GENERAL.—Except as provided in  
16 subparagraph (B), a textile or apparel good  
17 that is not an originating good because certain  
18 fibers or yarns used in the production of the  
19 component of the good that determines the tar-  
20 iff classification of the good do not undergo an  
21 applicable change in tariff classification, set out  
22 in Annex 4.1 of the Agreement, shall be consid-  
23 ered to be an originating good if—

24 (i) the total weight of all such fibers  
25 or yarns in that component is not more

1           than 10 percent of the total weight of that  
2           component; or

3           (ii) the yarns are those described in  
4           section 204(b)(3)(B)(vi)(IV) of the Andean  
5           Trade Preference Act (19 U.S.C.  
6           3203(b)(3)(B)(vi)(IV))(as in effect on the  
7           date of the enactment of this Act).

8           (B) CERTAIN TEXTILE OR APPAREL  
9           GOODS.—A textile or apparel good containing  
10          elastomeric yarns in the component of the good  
11          that determines the tariff classification of the  
12          good shall be considered to be an originating  
13          good only if such yarns are wholly formed in  
14          the territory of a CAFTA–DR country.

15          (C) YARN, FABRIC, OR FIBER.—For pur-  
16          poses of this paragraph, in the case of a good  
17          that is a yarn, fabric, or fiber, the term “com-  
18          ponent of the good that determines the tariff  
19          classification of the good” means all of the fi-  
20          bers in the good.

21          (g) FUNGIBLE GOODS AND MATERIALS.—

22               (1) IN GENERAL.—

23               (A) CLAIM FOR PREFERENTIAL TARIFF  
24               TREATMENT.—A person claiming that a fun-  
25               gible good or fungible material is an originating

good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) INVENTORY MANAGEMENT METHOD.—

In this subsection, the term “inventory management method” means—

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

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

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A

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

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

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

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

7                   (B) be disregarded in determining whether  
8                   all the nonoriginating materials used in the pro-  
9                   duction of the good undergo the applicable  
10                  change in tariff classification set out in Annex  
11                  4.1 of the Agreement.

12           (2) CONDITIONS.—Paragraph (1) shall apply  
13           only if—

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

19                   (B) the quantities and value of the acces-  
20                   sories, spare parts, or tools are customary for  
21                   the good.

22           (3) REGIONAL VALUE-CONTENT.—If the good is  
23           subject to a regional value-content requirement, the  
24           value of the accessories, spare parts, or tools shall  
25           be taken into account as originating or nonorigi-

1 nating materials, as the case may be, in calculating  
2 the regional value-content of the good.

3 (i) PACKAGING MATERIALS AND CONTAINERS FOR  
4 RETAIL SALE.—Packaging materials and containers in  
5 which a good is packaged for retail sale, if classified with  
6 the good, shall be disregarded in determining whether all  
7 the nonoriginating materials used in the production of the  
8 good undergo the applicable change in tariff classification  
9 set out in Annex 4.1 of the Agreement, and, if the good  
10 is subject to a regional value-content requirement, the  
11 value of such packaging materials and containers shall be  
12 taken into account as originating or nonoriginating mate-  
13 rials, as the case may be, in calculating the regional value-  
14 content of the good.

15 (j) PACKING MATERIALS AND CONTAINERS FOR  
16 SHIPMENT.—Packing materials and containers for ship-  
17 ment shall be disregarded in determining whether a good  
18 is an originating good.

19 (k) INDIRECT MATERIALS.—An indirect material  
20 shall be treated as an originating material without regard  
21 to where it is produced.

22 (l) TRANSIT AND TRANSHIPMENT.—A good that has  
23 undergone production necessary to qualify as an origi-  
24 nating good under subsection (b) shall not be considered

1 to be an originating good if, subsequent to that produc-  
2 tion, the good—

3 (1) undergoes further production or any other  
4 operation outside the territories of the CAFTA–DR  
5 countries, other than unloading, reloading, or any  
6 other operation necessary to preserve the good in  
7 good condition or to transport the good to the terri-  
8 tory of a CAFTA–DR country; or

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

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

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

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

22 (A) in the case of textile or apparel goods,  
23 10 percent of the adjusted value of the set; or

1 (B) in the case of a good, other than a tex-  
2 tile or apparel good, 15 percent of the adjusted  
3 value of the set.

4 (n) DEFINITIONS.—In this section:

5 (1) ADJUSTED VALUE.—The term “adjusted  
6 value” means the value determined in accordance  
7 with Articles 1 through 8, Article 15, and the cor-  
8 responding interpretive notes of the Agreement on  
9 Implementation of Article VII of the General Agree-  
10 ment on Tariffs and Trade 1994 referred to in sec-  
11 tion 101(d)(8) of the Uruguay Round Agreements  
12 Act, adjusted, if necessary, to exclude any costs,  
13 charges, or expenses incurred for transportation, in-  
14 surance, and related services incident to the inter-  
15 national shipment of the merchandise from the coun-  
16 try of exportation to the place of importation.

17 (2) CAFTA–DR COUNTRY.—The term  
18 “CAFTA–DR country” means—

19 (A) the United States; and

20 (B) Costa Rica, the Dominican Republic,  
21 El Salvador, Guatemala, Honduras, or Nica-  
22 ragua, for such time as the Agreement is in  
23 force between the United States and that coun-  
24 try.

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

4                   (A) Motor vehicles provided for in sub-  
5                   heading 8701.20, 8704.10, 8704.22, 8704.23,  
6                   8704.32, or 8704.90, or heading 8705 or 8706,  
7                   or motor vehicles for the transport of 16 or  
8                   more persons provided for in subheading  
9                   8702.10 or 8702.90.

10                   (B) Motor vehicles provided for in sub-  
11                   heading 8701.10 or any of subheadings  
12                   8701.30 through 8701.90.

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

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

19           (4) FUNGIBLE GOOD OR FUNGIBLE MATE-  
20           RIAL.—The term “fungible good” or “fungible mate-  
21           rial” means a good or material, as the case may be,  
22           that is interchangeable with another good or mate-  
23           rial for commercial purposes and the properties of  
24           which are essentially identical to such other good or  
25           material.

1           (5) GENERALLY ACCEPTED ACCOUNTING PRIN-  
2           CIPLES.—The term “generally accepted accounting  
3           principles” means the recognized consensus or sub-  
4           stantial authoritative support in the territory of a  
5           CAFTA–DR country with respect to the recording  
6           of revenues, expenses, costs, assets, and liabilities,  
7           the disclosure of information, and the preparation of  
8           financial statements. The principles may encompass  
9           broad guidelines of general application as well as de-  
10          tailed standards, practices, and procedures.

11          (6) GOODS WHOLLY OBTAINED OR PRODUCED  
12          ENTIRELY IN THE TERRITORY OF ONE OR MORE OF  
13          THE CAFTA–DR COUNTRIES.—The term “goods  
14          wholly obtained or produced entirely in the territory  
15          of one or more of the CAFTA–DR countries”  
16          means—

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

20                (B) live animals born and raised in the ter-  
21                ritory of one or more of the CAFTA–DR coun-  
22                tries;

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

1 (D) goods obtained from hunting, trap-  
2 ping, fishing or aquaculture conducted in the  
3 territory of one or more of the CAFTA–DR  
4 countries;

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

9 (F) fish, shellfish, and other marine life  
10 taken from the sea, seabed, or subsoil outside  
11 the territory of one or more of the CAFTA–DR  
12 countries by vessels registered or recorded with  
13 a CAFTA–DR country and flying the flag of  
14 that country;

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

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

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

6 (J) waste and scrap derived from—

7 (i) manufacturing or processing oper-  
8 ations in the territory of one or more of  
9 the CAFTA–DR countries; or

10 (ii) used goods collected in the terri-  
11 tory of one or more of the CAFTA–DR  
12 countries, if such goods are fit only for the  
13 recovery of raw materials;

14 (K) recovered goods derived in the terri-  
15 tory of one or more of the CAFTA–DR coun-  
16 tries from used goods, and used in the territory  
17 of a CAFTA–DR country in the production of  
18 remanufactured goods; and

19 (L) goods produced in the territory of one  
20 or more of the CAFTA–DR countries exclu-  
21 sively from—

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

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

1 at any stage of production.

2 (7) IDENTICAL GOODS.—The term “identical  
3 goods” means identical goods as defined in the  
4 Agreement on Implementation of Article VII of the  
5 General Agreement on Tariffs and Trade 1994 re-  
6 ferred to in section 101(d)(8) of the Uruguay Round  
7 Agreements Act;

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

14 (A) fuel and energy;

15 (B) tools, dies, and molds;

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

18 (D) lubricants, greases, compounding ma-  
19 terials, and other materials used in production  
20 or used to operate equipment or buildings;

21 (E) gloves, glasses, footwear, clothing,  
22 safety equipment, and supplies;

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

25 (G) catalysts and solvents; and

1           (H) any other goods that are not incor-  
2           porated into the good but the use of which in  
3           the production of the good can reasonably be  
4           demonstrated to be a part of that production.

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

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

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

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

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

1           (14) NONORIGINATING GOOD OR NONORIGI-  
2           NATING MATERIAL.—The terms “nonoriginating  
3           good” and “nonoriginating material” mean a good  
4           or material, as the case may be, that does not qual-  
5           ify as originating under this section.

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

12          (16) PREFERENTIAL TARIFF TREATMENT.—  
13          The term “preferential tariff treatment” means the  
14          customs duty rate, and the treatment under article  
15          3.10.4 of the Agreement, that are applicable to an  
16          originating good pursuant to the Agreement.

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

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

24          (19) REASONABLY ALLOCATE.—The term “rea-  
25          sonably allocate” means to apportion in a manner

1       that would be appropriate under generally accepted  
2       accounting principles.

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

6                       (A) the disassembly of used goods into in-  
7       dividual parts; and

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

12               (21) REMANUFACTURED GOOD.—The term “re-  
13      manufactured good” means a good that is classified  
14      under chapter 84, 85, or 87, or heading 9026, 9031,  
15      or 9032, other than a good classified under heading  
16      8418 or 8516, and that—

17                       (A) is entirely or partially comprised of re-  
18      covered goods; and

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

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

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

3           (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

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

11          (2) FABRICS AND YARNS NOT AVAILABLE IN  
12 COMMERCIAL QUANTITIES IN THE UNITED  
13 STATES.—The President is authorized to proclaim  
14 that a fabric or yarn is added to the list in Annex  
15 3.25 of the Agreement in an unrestricted quantity,  
16 as provided in article 3.25.4(e) of the Agreement.

17          (3) MODIFICATIONS.—

18           (A) IN GENERAL.—Subject to the consulta-  
19 tion and layover provisions of section 104, the  
20 President may proclaim modifications to the  
21 provisions proclaimed under the authority of  
22 paragraph (1)(A), other than provisions of  
23 chapters 50 through 63, as included in Annex  
24 4.1 of the Agreement.

1 (B) ADDITIONAL PROCLAMATIONS.—Not-  
2 withstanding subparagraph (A), and subject to  
3 the consultation and layover provisions of sec-  
4 tion 104, the President may proclaim before the  
5 end of the 1-year period beginning on the date  
6 of the enactment of this Act, modifications to  
7 correct any typographical, clerical, or other non-  
8 substantive technical error regarding the provi-  
9 sions of chapters 50 through 63, as included in  
10 Annex 4.1 of the Agreement.

11 (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-  
12 ABLE IN COMMERCIAL QUANTITIES IN THE CAFTA-  
13 DR COUNTRIES.—

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

18 (B) DEFINITIONS.—In this paragraph:

19 (i) The term “interested entity”  
20 means the government of a CAFTA–DR  
21 country other than the United States, a  
22 potential or actual purchaser of a textile or  
23 apparel good, or a potential or actual sup-  
24 plier of a textile or apparel good.

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

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

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

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

17                       (II) any interested entity objects to  
18                       the request.

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

1           that the President may establish, if the Presi-  
2           dent determines under clause (ii) that—

3                   (I) the fabric, yarn, or fiber is not  
4                   available in commercial quantities in a  
5                   timely manner in the CAFTA–DR coun-  
6                   tries; or

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

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

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

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

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

1           (vi) Not later than 6 months after pro-  
2           claiming under clause (iii) that a fabric, yarn,  
3           or fiber is added to the list in Annex 3.25 of  
4           the Agreement in a restricted quantity, the  
5           President may eliminate the restriction if the  
6           President determines that the fabric, yarn, or  
7           fiber is not available in commercial quantities in  
8           a timely manner in the CAFTA–DR countries.

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

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

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

1 (E) REQUESTS TO RESTRICT OR REMOVE  
2 FABRICS, YARNS, OR FIBERS.—(i) Subject to  
3 clause (ii), an interested entity may request the  
4 President to restrict the quantity of, or remove  
5 from the list in Annex 3.25 of the Agreement,  
6 any fabric, yarn, or fiber—

7 (I) that has been added to that list in  
8 an unrestricted quantity pursuant to para-  
9 graph (2) or subparagraph (C)(iii) or (D);  
10 or

11 (II) with respect to which the Presi-  
12 dent has eliminated a restriction under  
13 subparagraph (C)(vi).

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

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

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

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

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

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

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

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

“(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by

1       reason of this paragraph may not be funded with  
 2       money contained in the Customs User Fee Ac-  
 3       count.”.

4   **SEC. 205. RETROACTIVE APPLICATION FOR CERTAIN LIQ-**  
 5                   **UIDATIONS AND RELIQUIDATIONS OF TEX-**  
 6                   **TILE OR APPAREL GOODS.**

7       (a) IN GENERAL.—Notwithstanding section 514 of  
 8       the Tariff Act of 1930 (19 U.S.C. 1514) or any other pro-  
 9       vision of law, and subject to subsection (c), an entry—  
 10       (1) of a textile or apparel good—  
 11           (A) of a CAFTA–DR country that the  
 12           United States Trade Representative has des-  
 13           ignated as an eligible country under subsection  
 14           (b), and  
 15           (B) that would have qualified as an origi-  
 16           nating good under section 203 if the good had  
 17           been entered after the date of entry into force  
 18           of the Agreement for that country,  
 19       (2) that was made on or after January 1, 2004,  
 20       and before the date of the entry into force of the  
 21       Agreement with respect to that country, and  
 22       (3) for which customs duties in excess of the  
 23       applicable rate of duty for that good set out in the  
 24       Schedule of the United States to Annex 3.3 of the  
 25       Agreement were paid,

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

6 (b) ELIGIBLE COUNTRY.—The United States Trade  
7 Representative shall determine, in accordance with article  
8 3.20 of the Agreement, which CAFTA–DR countries are  
9 eligible countries for purposes of this section, and shall  
10 publish a list of all such countries in the Federal Register.

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

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

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

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

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

4 **SEC. 206. DISCLOSURE OF INCORRECT INFORMATION;**  
 5 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**  
 6 **OF PREFERENTIAL TARIFF TREATMENT.**

7 (a) DISCLOSURE OF INCORRECT INFORMATION.—  
 8 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)  
 9 is amended—

10 (1) in subsection (c)—

11 (A) by redesignating paragraph (9) as  
 12 paragraph (10); and

13 (B) by inserting after paragraph (8) the  
 14 following new paragraph:

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

1 promptly and voluntarily makes a corrected declara-  
2 tion and pays any duties owing.”; and

3 (2) by adding at the end the following new sub-  
4 section:

5 “(h) FALSE CERTIFICATIONS OF ORIGIN UNDER THE  
6 DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED  
7 STATES FREE TRADE AGREEMENT.—

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

20 “(2) PROMPT AND VOLUNTARY DISCLOSURE OF  
21 INCORRECT INFORMATION.—No penalty shall be im-  
22 posed under this subsection if, promptly after an ex-  
23 porter or producer that issued a CAFTA–DR certifi-  
24 cation of origin has reason to believe that such cer-  
25 tification contains or is based on incorrect informa-

1       tion, the exporter or producer voluntarily provides  
2       written notice of such incorrect information to every  
3       person to whom the certification was issued.

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

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

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

14       (b) DENIAL OF PREFERENTIAL TARIFF TREAT-  
15       MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.  
16       1514) is amended by adding at the end the following new  
17       subsection:

18               “(h) DENIAL OF PREFERENTIAL TARIFF TREAT-  
19       MENT UNDER THE DOMINICAN REPUBLIC-CENTRAL  
20       AMERICA-UNITED STATES FREE TRADE AGREEMENT.—  
21       If the Bureau of Customs and Border Protection or the  
22       Bureau of Immigration and Customs Enforcement finds  
23       indications of a pattern of conduct by an importer, ex-  
24       porter, or producer of false or unsupported representa-  
25       tions that goods qualify under the rules of origin set out

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

12 **SEC. 207. RELIQUIDATION OF ENTRIES.**

13 Subsection (d) of section 520 of the Tariff Act of  
14 1930 (19 U.S.C. 1520(d)) is amended—

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

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

1 **SEC. 208. RECORDKEEPING REQUIREMENTS.**

2 Section 508 of the Tariff Act of 1930 (19 U.S.C.  
3 1508) is amended—

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

6 (2) by inserting after subsection (f) the fol-  
7 lowing new subsection:

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

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

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

18 “(i) the purchase, cost, and value of,  
19 and payment for, the good;

20 “(ii) the purchase, cost, and value of,  
21 and payment for, all materials, including  
22 indirect materials, used in the production  
23 of the good; and

24 “(iii) the production of the good in  
25 the form in which it was exported.

1           “(B) CAFTA–DR CERTIFICATION OF ORI-  
2           GIN.—The term ‘CAFTA–DR certification of  
3           origin’ means the certification established under  
4           article 4.16 of the Dominican Republic-Central  
5           America-United States Free Trade Agreement  
6           that a good qualifies as an originating good  
7           under such Agreement.

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

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

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

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

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

1 **SEC. 209. ENFORCEMENT RELATING TO TRADE IN TEXTILE**  
2 **OR APPAREL GOODS.**

3 (a) ACTION DURING VERIFICATION.—

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

12 (2) DETERMINATION.—A determination under  
13 this paragraph is a determination—

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

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

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

23 (ii) is a good of a CAFTA–DR coun-  
24 try,  
25 is accurate.

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

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

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

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

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

22 (A) any textile or apparel good exported or  
23 produced by the person that is the subject of a  
24 verification under subsection (a)(1) regarding  
25 compliance described in subsection (a)(2)(A), if

1           the Secretary determines that the person has  
2           provided incorrect information to support any  
3           claim for preferential tariff treatment that has  
4           been made with respect to any such good; or

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

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

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

1 the person has provided incorrect information as to  
2 the country of origin of any such good.

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

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

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

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

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

23 (B) the textile or apparel good for which a  
24 claim of preferential tariff treatment has been  
25 made that is the subject of a verification under

1 subsection (a)(1) regarding a claim described in  
2 subsection (a)(2)(B), if the Secretary deter-  
3 mines there is insufficient information to sup-  
4 port, or that a person has provided incorrect in-  
5 formation to support, that claim; and

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

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

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

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

23 **SEC. 210. REGULATIONS.**

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

- 1 (1) subsections (a) through (n) of section 203;
- 2 (2) the amendment made by section 204; and
- 3 (3) any proclamation issued under section
- 4 203(o).

## 5 **TITLE III—RELIEF FROM**

## 6 **IMPORTS**

### 7 **SEC. 301. DEFINITIONS.**

8 In this title:

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

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

16 (3) DE MINIMIS SUPPLYING COUNTRY.—

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

1 (B) A CAFTA–DR country shall not be  
2 considered to be a de minimis supplying country  
3 if the aggregate share of imports of the relevant  
4 CAFTA–DR article into the United States of  
5 all CAFTA–DR countries that satisfy the con-  
6 ditions of subparagraph (A) exceeds 9 percent  
7 of the aggregate volume of imports of the rel-  
8 evant CAFTA–DR article during the applicable  
9 12-month period.

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

14 **Subtitle A—Relief From Imports**  
15 **Benefiting From the Agreement**

16 **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

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

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

13       (c) APPLICABLE PROVISIONS.—The following provi-  
14 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
15 2252) apply with respect to any investigation initiated  
16 under subsection (b):

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

19               (2) Subsection (c).

20               (3) Subsection (i).

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

1 provided with respect to that CAFTA–DR article under  
2 this subtitle.

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

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

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

18 (c) ADDITIONAL FINDING AND RECOMMENDATION IF  
19 DETERMINATION AFFIRMATIVE.—If the determination  
20 made by the Commission under subsection (a) with respect  
21 to imports of an article is affirmative, or if the President  
22 may consider a determination of the Commission to be an  
23 affirmative determination as provided for under paragraph  
24 (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
25 1330(d)), the Commission shall find, and recommend to

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

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

- 21 (1) the determination made under subsection  
22 (a) and an explanation of the basis for the deter-  
23 mination;
- 24 (2) if the determination under subsection (a) is  
25 affirmative, any findings and recommendations for

1 import relief made under subsection (c) and an ex-  
2 planation of the basis for each recommendation; and  
3 (3) any dissenting or separate views by mem-  
4 bers of the Commission regarding the determination  
5 and recommendation referred to in paragraphs (1)  
6 and (2).

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

13 **SEC. 313. PROVISION OF RELIEF.**

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

1 mestic industry to make a positive adjustment to import  
2 competition.

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

7 (c) NATURE OF RELIEF.—

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

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

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

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

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

24 (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
25 riod for which import relief is provided under this

1 section is greater than 1 year, the President shall  
2 provide for the progressive liberalization (described  
3 in article 8.2.3 of the Agreement) of such relief at  
4 regular intervals during the period of its application.

5 (d) PERIOD OF RELIEF.—

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

10 (2) EXTENSION.—

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

23 (i) the import relief continues to be  
24 necessary to remedy or prevent serious in-

1 jury and to facilitate adjustment by the do-  
2 mestic industry to import competition; and

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

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

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

1           and to respond to the presentations of other  
2           parties and consumers, and otherwise to be  
3           heard.

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

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

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

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

23           (A) the applicable rate of duty for that ar-  
24           ticle set out in the Schedule of the United  
25           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—

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

4 (ii) efforts by the United States to fa-  
5 cilitate full implementation of the White  
6 Paper recommendations; and

7 (iii) the efforts made by the CAFTA-  
8 DR countries to comply with article 16.5  
9 and Annex 16.5 of the Agreement and to  
10 fully implement the White Paper rec-  
11 ommendations, including the progress  
12 made by the CAFTA-DR countries in af-  
13 fording to workers internationally-recog-  
14 nized worker rights through improved ca-  
15 pacity.

16 (4) SOLICITATION OF PUBLIC COMMENTS.—The  
17 President shall establish a mechanism to solicit pub-  
18 lic comments for purposes of paragraph (3)(D).

19 (b) PERIODIC MEETINGS OF SECRETARY OF LABOR  
20 WITH LABOR MINISTERS OF CAFTA-DR COUNTRIES.—

21 (1) PERIODIC MEETINGS.—The Secretary of  
22 Labor should take the necessary steps to meet peri-  
23 odically with the labor ministers of the CAFTA-DR  
24 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 House of Representatives July 28 (legis-  
 lative day, July 27), 2005.

Attest:

*Clerk.*

109TH CONGRESS  
1ST SESSION

**H. R. 3045**

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**AN ACT**

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