

Union Calendar No. 114

109TH CONGRESS
1ST SESSION**H. R. 3045****[Report No. 109–182]**

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2005

Mr. DELAY (for himself and Mr. JEFFERSON) introduced the following bill;
which was referred to the Committee on Ways and Means

JULY 25, 2005

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

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

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

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

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

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

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

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

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

TITLE II—CUSTOMS PROVISIONS

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

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

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

Subtitle B—Textile and Apparel Safeguard Measures

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

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

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

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

TITLE IV—MISCELLANEOUS

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

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

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

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

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

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) the Dominican Republic-Central America-
5 United States Free Trade Agreement entered into
6 on August 5, 2004, with the Governments of Costa
7 Rica, the Dominican Republic, El Salvador, Guate-
8 mala, Honduras, and Nicaragua, and submitted to
9 the Congress on June 23, 2005; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) IMPLEMENTING ACTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) the Commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **TITLE II—CUSTOMS PROVISIONS**

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

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

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

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

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

13 (C) such additional duties,

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

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

25 (3) EFFECT ON CBERA STATUS.—

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

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

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

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

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

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

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

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

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

12 (4) such additional duties,

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

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

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

25 (a) GENERAL PROVISIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

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

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

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

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

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

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

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

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

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

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

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

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

11 **SEC. 203. RULES OF ORIGIN.**

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

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

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

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

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

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

9 (2) the good—

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

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

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

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

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

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

3 (c) REGIONAL VALUE-CONTENT.—

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

12 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

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

4 (3) BUILD-UP METHOD.—

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

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

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

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

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

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

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

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

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

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

(B) DEFINITIONS.—In subparagraph (A):

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

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

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

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

(C) MOTOR VEHICLES.—

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

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

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

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

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

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

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

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

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

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

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

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

25 (II) any quarter or month, or

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

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

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

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

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

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

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

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

(d) VALUE OF MATERIALS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) ACCUMULATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 production of a good provided for in any of
2 chapters 1 through 24, unless the nonorigi-
3 nating material is provided for in a different
4 subheading than the good for which origin is
5 being determined under this section.

6 (3) TEXTILE OR APPAREL GOODS.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), a textile or apparel good
9 that is not an originating good because certain
10 fibers or yarns used in the production of the
11 component of the good that determines the tar-
12 iff classification of the good do not undergo an
13 applicable change in tariff classification, set out
14 in Annex 4.1 of the Agreement, shall be consid-
15 ered to be an originating good if—

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

20 (ii) the yarns are those described in
21 section 204(b)(3)(B)(vi)(IV) of the Andean
22 Trade Preference Act (19 U.S.C.
23 3203(b)(3)(B)(vi)(IV))(as in effect on the
24 date of the enactment of this Act).

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

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

14 (g) FUNGIBLE GOODS AND MATERIALS.—

15 (1) IN GENERAL.—

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

1 (B) INVENTORY MANAGEMENT METHOD.—

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

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

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

12 (II) otherwise accepted by that
13 country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (n) DEFINITIONS.—In this section:

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

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

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

12 (A) the United States; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (J) waste and scrap derived from—

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

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

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

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

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

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

20 at any stage of production.

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

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

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

9 (A) fuel and energy;

10 (B) tools, dies, and molds;

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

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

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

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

20 (G) catalysts and solvents; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

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

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

15 (3) MODIFICATIONS.—

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

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

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

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

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

(B) DEFINITIONS.—In this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) of a textile or apparel good—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) in subsection (c)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) ACTION DURING VERIFICATION.—

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

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

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

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

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

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

22 is accurate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. 210. REGULATIONS.**

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

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

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

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

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

5 **SEC. 301. DEFINITIONS.**

6 In this title:

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

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

14 (3) DE MINIMIS SUPPLYING COUNTRY.—

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

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

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

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

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

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

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

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

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

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

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

17 (2) Subsection (c).

18 (3) Subsection (i).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) NATURE OF RELIEF.—

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

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

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

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

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

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

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

3 (d) PERIOD OF RELIEF.—

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

8 (2) EXTENSION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) by striking “and”; and

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

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

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

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

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

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

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

8 (a) DETERMINATION.—

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

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

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

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

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

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

14 (b) PROVISION OF RELIEF.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (A) subtitle A; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **TITLE IV—MISCELLANEOUS**

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

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

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

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

19 (iii) and inserting “; or”; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) REPORTS TO CONGRESS.—

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

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

14 (B) implementing the White Paper.

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

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

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

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

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

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

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).

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109TH CONGRESS
1ST Session

H. R. 3045

[Report No. 109-182]

A BILL

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

JULY 25, 2005

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed