

spect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

#### DELEGATION OF FUNCTIONS

Proc. No. 7987, Feb. 28, 2006, 71 F.R. 10828, provided in par. (3) that the Secretary of Commerce is authorized to exercise the President's authority under subsec. (a) of this section to establish or designate an office within the Department of Commerce to carry out the functions set forth in this section.

#### § 4016. Arbitration of claims

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

(Pub. L. 109-53, title I, §106, Aug. 2, 2005, 119 Stat. 466.)

#### TERMINATION OF SECTION

*For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.*

#### EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

#### SUBCHAPTER II—CUSTOMS PROVISIONS

#### § 4031. Tariff modifications

##### (a) Tariff modifications provided for in the Agreement

###### (1) Proclamation authority

The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

###### (2) Effect on GSP status

Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of each CAFTA-DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date the Agreement enters into force with respect to that country.

###### (3) Effect on CBERA status

###### (A) In general

Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA-DR country as a beneficiary country for purposes of that

Act [19 U.S.C. 2701 et seq.] on the date the Agreement enters into force with respect to that country.

##### (B) Exception

Notwithstanding subparagraph (A), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act [19 U.S.C. 2702(a)], for purposes of—

(i) sections 1677(7)(G)(ii)(III) and 1677(7)(H) of this title;

(ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

(iii) section 274(h)(6)(B) of title 26.

##### (b) Other tariff modifications

Subject to the consultation and layover provisions of section 4014 of this title, the President may proclaim—

(1) such modifications or continuation of any duty,

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

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

(4) such additional duties,

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

##### (c) Conversion to ad valorem rates

For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(Pub. L. 109-53, title II, §201, Aug. 2, 2005, 119 Stat. 467.)

#### TERMINATION OF SECTION

*For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.*

#### REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (a)(2), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (a)(3)(A), is title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, as amended, which is classified principally to chapter 15 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

#### EFFECTIVE AND TERMINATION DATES

Section effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on the date the Agreement ceases to be in

force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as a note under section 4001 of this title.

**§ 4032. Additional duties on certain agricultural goods**

**(a) General provisions**

**(1) Applicability of subsection**

This subsection applies to additional duties assessed under subsection (b).

**(2) Applicable NTR (MFN) rate of duty**

For purposes of subsection (b), the term “applicable NTR (MFN) rate of duty” means, with respect to a safeguard good, a rate of duty that is the lesser of—

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

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

**(3) Schedule rate of duty**

For purposes of subsection (b), the term “schedule rate of duty” means, with respect to a safeguard good, the rate of duty for that good that is set out in the Schedule of the United States to Annex 3.3 of the Agreement.

**(4) Safeguard good**

In this section, the term “safeguard good” means a good—

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

(B) that qualifies as an originating good under section 4033 of this title, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

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

**(5) Exceptions**

No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) part A of subchapter III of this chapter; or

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

**(6) Termination**

The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

**(7) Notice**

Not later than 60 days after the Secretary of the Treasury first assesses an additional duty

in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

**(b) Additional duties on safeguard goods**

**(1) In general**

In addition to any duty proclaimed under subsection (a) or (b) of section 4031 of this title, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CAFTA-DR country imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

**(2) Calculation of additional duty**

The additional duty on a safeguard good under this subsection shall be—

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

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

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

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

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

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

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

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

(Pub. L. 109-53, title II, §202, Aug. 2, 2005, 119 Stat. 468.)

TERMINATION OF SECTION

*For termination of section by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates note below.*

REFERENCES IN TEXT

Part A of subchapter III of this chapter, referred to in subsec. (a)(5)(A), was in the original “subtitle A of title