

into force, and not later than the end of each 2-year period thereafter during the succeeding 14-year period, the President shall report to the Congress on the progress made by the CAFTA-DR countries in—

- (A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and
- (B) implementing the White Paper.

(2) White Paper

In this section, the term “White Paper” means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled “The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity”.

(3) Contents of reports

Each report under paragraph (1) shall include the following:

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

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

(C) A description of the work done by the CAFTA-DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

(D) A summary of public comments received on—

- (i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;
- (ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and
- (iii) the efforts made by the CAFTA-DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA-DR countries in affording to workers internationally-recognized worker rights through improved capacity.

(4) Solicitation of public comments

The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

(b) Periodic meetings of Secretary of Labor with labor ministers of CAFTA-DR countries

(1) Periodic meetings

The Secretary of Labor should take the necessary steps to meet periodically with the

labor ministers of the CAFTA-DR countries to discuss—

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

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

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

(D) such other matters as the Secretary of Labor and the labor ministers consider appropriate.

(2) Inclusion in biennial reports

The President shall include in each report under subsection (a), as the President deems appropriate, summaries of the meetings held pursuant to paragraph (1).

(Pub. L. 109-53, title IV, § 403, Aug. 2, 2005, 119 Stat. 496.)

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.

DELEGATION OF FUNCTIONS

Proc. No. 8272, June 30, 2008, 73 F.R. 38300, provided in pars. (17) and (18) that the reporting function under subsecs. (a) and (b)(2) of this section and the solicitation of public comments under subsec. (a)(4) of this section were delegated to the Secretary of Labor, in consultation with the United States Trade Representative.

§ 4112. Earned import allowance program

(a) Preferential treatment

(1) In general

Eligible apparel articles wholly assembled in an eligible country and imported directly from an eligible country shall enter the United States free of duty, without regard to the source of the fabric or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of fabric in such apparel articles, in accordance with the program established under subsection (b).

(2) Determination of quantity of SME

For purposes of determining the quantity of square meter equivalents under paragraph (1), the conversion factors listed in “Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008”, or its

successor publications, of the United States Department of Commerce, shall apply.

(b) Earned import allowance program

(1) Establishment

The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production of eligible apparel articles in an eligible country for purposes of subsection (a), based on the elements described in paragraph (2).

(2) Elements

The elements referred to in paragraph (1) are the following:

(A) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying fabric that the producer or entity controlling production can demonstrate that it has purchased for the manufacture in an eligible country of articles like or similar to any article eligible for preferential treatment under subsection (a). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits may be deposited.

(B) Such producer or entity controlling production may redeem credits issued under subparagraph (A) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

(C) Any textile mill or other entity located in the United States that exports qualifying fabric to an eligible country may submit, upon such export or upon request, the Shipper's Export Declaration, or successor documentation, to the Secretary of Commerce—

(i) verifying that the qualifying fabric was exported to a producer or entity controlling production in an eligible country; and

(ii) identifying such producer or entity controlling production, and the quantity and description of qualifying fabric exported to such producer or entity controlling production.

(D) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying fabric.

(E) The Secretary of Commerce may make available to each person or entity identified in the documentation submitted under subparagraph (C) or (D) information contained in such documentation that relates to the purchase of qualifying fabric involving such person or entity.

(F) The program shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subsection (a)(1).

(G) The Secretary of Commerce may reconcile discrepancies in the information pro-

vided under subparagraph (C) or (D) and verify the accuracy of such information.

(H) The Secretary of Commerce shall establish procedures to carry out the program under this section by September 30, 2008, and may establish additional requirements to carry out the program.

(c) Definitions

For purposes of this section—

(1) the term “appropriate congressional committees” means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(2) the term “eligible apparel articles” means the following articles classified in chapter 62 of the HTS (and meeting the requirements of the rules relating to chapter 62 of the HTS) of cotton (but not of denim): trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts, and pants;

(3) the term “eligible country” means the Dominican Republic; and

(4) the term “qualifying fabric” means woven fabric of cotton wholly formed in the United States from yarns wholly formed in the United States and certified by the producer or entity controlling production as being suitable for use in the manufacture of apparel items such as trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts or pants, all the foregoing of cotton, except that—

(A) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains nylon filament yarn with respect to which section 2703(b)(2)(A)(vii)(IV) of this title applies;

(B) fabric that would otherwise be ineligible as qualifying fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric, except that any elastomeric yarn contained in an eligible apparel article must be wholly formed in the United States; and

(C) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains yarns or fibers that have been designated as not commercially available pursuant to—

(i) article 3.25(4) or Annex 3.25 of the Agreement;

(ii) Annex 401 of the North American Free Trade Agreement;

(iii) section 3721(b)(5) of this title;

(iv) section 3203(b)(3)(B)(i)(III) or (ii) of this title;

(v) section 2703(b)(2)(A)(v) or 2703a(b)(5)(A) of this title; or

(vi) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

(d) Review and report**(1) Review**

The United States International Trade Commission shall carry out a review of the program under this section annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(2) Report

The United States International Trade Commission shall submit to the appropriate congressional committees annually a report on the results of the review carried out under paragraph (1).

(e) Effective date and applicability**(1) Effective date**

The program under this section shall be in effect for the 10-year period beginning on the date on which the President certifies to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) have taken effect.

(2) Applicability

The program under this section shall apply with respect to qualifying fabric exported to an eligible country on or after August 1, 2007.

(Pub. L. 109-53, title IV, §404, as added Pub. L. 110-436, §2(a), Oct. 16, 2008, 122 Stat. 4977.)

TERMINATION OF SECTION

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

REFERENCES IN TEXT

For Nov. 25, 2008, as the date on which the President certified to the appropriate congressional committees that sections A, B, C, and D of the Annex to Presidential Proclamation 8213 (December 20, 2007) had taken effect, referred to in subsec. (e)(1), see Proc. No. 8323, Nov. 25, 2008, 73 F.R. 72677. Presidential Proclamation 8213 is Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73555, which is not set out in the Code.

TERMINATION DATE

Section to cease to have effect on the date the Dominican Republic-Central America-United States Free Trade 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 an Effective and Termination Dates note under section 4001 of this title.