

TITLE 19 - CUSTOMS DUTIES
CHAPTER 15 - CARIBBEAN BASIN ECONOMIC RECOVERY

§ 2703a. Special rules for Haiti

(a) Definitions

In this section:

(1) Applicable 1-year period

(A) In general

The term “applicable 1-year period” means each of the 1-year periods described in subparagraphs (B) through (F).

(B) Initial applicable 1-year period

The term “initial applicable 1-year period” means the 1-year period beginning on December 20, 2006.

(C) Second applicable 1-year period

The term “second applicable 1-year period” means the 1-year period beginning on the day after the last day of the initial applicable 1-year period.

(D) Third applicable 1-year period

The term “third applicable 1-year period” means the 1-year period beginning on the day after the last day of the second applicable 1-year period.

(E) Fourth applicable 1-year period

The term “fourth applicable 1-year period” means the 1-year period beginning on the day after the last day of the third applicable 1-year period.

(F) Fifth applicable 1-year period

The term “fifth applicable 1-year period” means the 1-year period beginning on the day after the last day of the fourth applicable 1-year period.

(2) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(3) Core labor standards

The term “core labor standards” means—

(A) freedom of association;

(B) the effective recognition of the right to bargain collectively;

(C) the elimination of all forms of compulsory or forced labor;

(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(E) the elimination of discrimination in respect of employment and occupation.

(4) Enter; entry

The terms “enter” and “entry” refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

(5) Imported directly from Haiti or the Dominican Republic

Articles are “imported directly from Haiti or the Dominican Republic” if—

(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

(I) remain under the control of the customs authority in the intermediate country;

(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

(6) Knit-to-shape

A good is “knit-to-shape” if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is “knit-to-shape.”¹

(7) TAICNAR Program

The term “TAICNAR Program” means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).

(8) Wholly assembled

A good is “wholly assembled” in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliques, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is “wholly assembled” in Haiti.

(b) Apparel and other textile articles

(1) Value-added rule for apparel articles

(A) In general

Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).

(B) Apparel articles described

(i) In general

In any applicable 1-year period, apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, only if, for each entry in the applicable 1-year period, the sum of—

(I) the cost or value of the materials produced in Haiti or one or more countries described in clause (iii), or any combination thereof, plus

(II) the direct costs of processing operations (as defined in section 2703 (a)(3) of this title) performed in Haiti or one or more countries described in clause (iii), or any combination thereof,

is not less than the applicable percentage (as defined in clause (v)(I)) of the declared customs value of such apparel articles.

(ii) Deductions

In calculating cost or value under clause (i)(I), there shall be deducted the cost or value of—

- (I)** any foreign materials that are used in the production of the apparel articles in Haiti; and
- (II)** any foreign materials that are used in the production of the materials described in clause (i)(I).

(iii) Countries described

The countries referred to in clause (i) are the following:

- (I)** The United States.
- (II)** Any country that is a party to a free trade agreement with the United States that is in effect on December 20, 2006, or that enters into force thereafter.
- (III)** Any country designated as a beneficiary country under section 2703 (b)(5)(B) of this title.
- (IV)** Any country designated as a beneficiary country under section 2466a (a)(1) of this title, if a finding has been made by the President or the President's designee, and published in the Federal Register, that the country has satisfied the requirements of section 3722 of this title.
- (V)** Any country designated as a beneficiary country under section 3203 (b)(6)(B) of this title.

(iv) Annual aggregation

(I) Initial applicable 1-year period

In the initial applicable 1-year period, the requirements under clause (i) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the initial applicable 1-year period by aggregating—

- (aa)** the cost or value of materials under subclause (I) of clause (i), and
- (bb)** the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the initial applicable 1-year period.

(II) Other applicable 1-year periods

In each of the second, third, fourth, and fifth applicable 1-year periods, the requirements under clause (i) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the applicable 1-year period by aggregating—

- (aa)** the cost or value of materials under subclause (I) of clause (i), and
- (bb)** the direct costs of processing operations under subclause (II) of clause (i),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding applicable 1-year period.

(III) Deductions

In calculating cost or value under subclause (I)(aa) or (II)(aa), there shall be deducted the cost or value of—

(aa) any foreign materials that are used in the production of the apparel articles in Haiti; and

(bb) any foreign materials that are used in the production of the materials described in subclause (I)(aa) or (II)(aa) (as the case may be).

(IV) Inclusion in calculation of other articles receiving preferential treatment

Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the “General” column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.

(v) Definitions

In this paragraph:

(I) Applicable percentage

The term “applicable percentage” means—

(aa) 50 percent or more during the initial applicable 1-year period, the second applicable 1-year period, and the third applicable 1-year period;

(bb) 55 percent or more during the fourth applicable 1-year period; and

(cc) 60 percent or more during the fifth applicable 1-year period.

(II) Foreign material

The term “foreign material” means a material produced in a country other than Haiti or any country described in clause (iii).

(vi) Development of procedure to ensure compliance

(I) In general

U.S. Customs and Border Protection of the Department of Homeland Security shall develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in clauses (i) and (iv).

(II) Noncompliance

If U.S. Customs and Border Protection finds that a producer or an entity controlling production has not satisfied such requirements in any applicable 1-year period, either for individual entries entered pursuant to clause (i) or for entries entered in aggregate pursuant to clause (iv), then apparel articles described in clause (i) of that producer or entity shall be ineligible for preferential treatment under paragraph (1) during any succeeding applicable 1-year period until—

(aa) the cost or value of materials under subclause (I) of clause (i), plus

(bb) the direct costs of processing operations under subclause (II) of clause (i),

of that producer or entity controlling production, is not less than the applicable percentage under clause (v)(I), plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding applicable 1-year period.

(III) Retroactive application of duty-free treatment

If—

(aa) a producer or an entity controlling production is ineligible for preferential treatment under subparagraph (A) in an applicable 1-year period because that producer or entity controlling production did not satisfy the requirements of clause (i) or (iv), and

(bb) that producer or entity controlling production satisfies the requirements of subclause (II) of this clause in that applicable 1-year period,

then, notwithstanding section 1514 of this title or any other provision of law, upon proper request filed with U.S. Customs and Border Protection before the 90th day after U.S. Customs and Border Protection determines that item (bb) applies, the entry of any articles—

(AA) that was made during that applicable 1-year period, and

(BB) with respect to which there would have been preferential treatment under subparagraph (A) if the producer or entity controlling production had satisfied the requirements in clause (i) or (iv) (as the case may be),

shall be liquidated or reliquidated as though such preferential treatment under subparagraph (A) applied to such entry.

(vii) Fabrics not available in commercial quantities

(I) In general

For purposes of determining the applicable percentage under clause (i) or (iv), there may be included in that percentage—

(aa) the cost of fabrics or yarns to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA; and

(bb) the cost of fabrics or yarns that are designated as not being available in commercial quantities for purposes of—

(AA) section 2703 (b)(2)(A)(v) of this title,

(BB) section 3721 (b)(5) of this title,

(CC) section 3203 (b)(3)(B)(i)(III) or (ii) of this title, or

(DD) 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 that enters into force with respect to the United States,

without regard to the source of the fabrics or yarns.

(II) Removal of designation of fabrics or yarns not available in commercial quantities

If the President determines that—

(aa) any fabric or yarn described in subclause (I)(aa) was determined to be eligible for preferential treatment, or

(bb) any fabric or yarn described in subclause (I)(bb) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(C) Quantitative limitations

The preferential treatment described in subparagraph (A) shall be extended, during each of the applicable 1-year periods set forth in the following table, to not more than the corresponding percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available:

During the:

the corresponding percentage is:
initial applicable 1-year period
1 percent.
second applicable 1-year period
1.25 percent.
third applicable 1-year period
1.25 percent.
fourth applicable 1-year period
1.25 percent.
fifth applicable 1-year period
1.25 percent.

No preferential treatment shall be provided under subparagraph (A) after the last day of the fifth applicable 1-year period.

(D) Other preferential treatment not affected by quantitative limitations

Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this chapter shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).

(2) Special rule for woven articles and certain knit articles

(A) Special rule for articles of chapter 62 of the HTS

(i) General rule

Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) Limitation

The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iii) Other preferential treatment not affected by quantitative limitation

Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this chapter shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

(B) Special rule for certain articles of chapter 61 of the HTS

(i) General rule

Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(ii) Exclusions

The preferential treatment described in clause (i) shall not apply to the following:

(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

(bb) All white singlets, without pockets, trim, or embroidery.

(cc) Other T-shirts, but not including thermal undershirts.

(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

(aa) Sweatshirts.

(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

(iii) Limitation

The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

(iv) Other preferential treatment not affected by quantitative limitation

Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this chapter shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).

(3) Apparel and other articles subject to certain assembly rules

(A) Brassieres

Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(B) Other apparel articles

Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference in such chapter rules to “6104.12.00” shall be deemed to be a reference to “6104.19.60”.

(ii) **(I)** Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3 (a), 4 (a), or 5 (a) for chapter 62 of the HTS, as such chapter rules are contained

in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

(C) Luggage and similar items

Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

(D) Headgear

Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(E) Certain sleepwear

Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

- (i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.
- (ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.

(4) Earned import allowance rule

(A) In general

Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, 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 such apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, 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

(i) Establishment

The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

(ii) Elements

The elements referred to in clause (i) are the following:

(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (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 shall be deposited.

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

(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

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

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

(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or (IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

(VI) The program under this subparagraph 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 subparagraph (A)(i).²

(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

(iii) Qualifying woven fabric defined

For purposes of this subparagraph, the term “qualifying woven fabric” means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

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

(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

(iv) Qualifying knit fabric defined

For purposes of this subparagraph, the term “qualifying knit fabric” means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph (1)(B)(iii), from yarns wholly formed in the United States, except that—

(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 2703 (b)(2)(A)(vii)(IV) of this title applies;

(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

(C) Review by United States Government Accountability Office

The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(D) Enforcement provisions

(i) Fraudulent claims of preference

Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18.

(ii) Penalties for other fraudulent information

The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).

(5) Short supply provision

(A) In general

Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape,

or yarns comprising the component that determines the tariff classification of the article are of any of the following:

- (i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.
- (ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—
 - (I) section 2703 (b)(2)(A)(v) of this title;
 - (II) section 3721 (b)(5) of this title;
 - (III) clause (i)(III) or (ii) of section 3203 (b)(3)(B) of this title; or
 - (IV) 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.

(B) Removal of designation of fabrics or yarns not available in commercial quantities

If the President determines that—

- (i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or
- (ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

(6) Other preferential treatment not affected

The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this chapter.

(c) Special rule for certain wire harness automotive components

(1) In general

Any wire harness automotive component that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States shall enter the United States free of duty, during the 5-year period beginning on December 20, 2006, if Haiti has met the requirements of subsection (d) and if the sum of—

- (A) the cost or value of the materials produced in Haiti or one or more countries described in subsection (b)(2)(C), or any combination thereof, plus
- (B) the direct costs of processing operations (as defined in section 2703 (a)(3) of this title) performed in Haiti or the United States, or both,

is not less than 50 percent of the declared customs value of such wire harness automotive component.

(2) Wire harness automotive component

For purposes of this subsection, the term “wire harness automotive component” means any article provided for in subheading 8544.30.00 of the HTS, as in effect on December 20, 2006.

(d) Eligibility requirements

(1) In general

Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti—

- (A) has established, or is making continual progress toward establishing—

- (i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;
 - (ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;
 - (iii) the elimination of barriers to United States trade and investment, including by—
 - (I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;
 - (II) the protection of intellectual property; and
 - (III) the resolution of bilateral trade and investment disputes;
 - (iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;
 - (v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and
 - (vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;
- (B) does not engage in activities that undermine United States national security or foreign policy interests; and
- (C) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

(2) Time limit for determination

The President shall determine whether Haiti meets the requirements of paragraph (1) not later than 90 days after December 20, 2006.

(3) Continuing compliance

If the President determines that Haiti is not making continual progress in meeting the requirements described in paragraph (1)(A), the President shall terminate the preferential treatment under this section.

(4) Petition process

Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 2462 of this title.

(e) Technical assistance improvement and compliance needs assessment and remediation program

(1) Continued eligibility for preferences

(A) Presidential certification of compliance by Haiti with requirements

Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall

continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—

- (i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and
- (ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

(B) Extension

The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

- (i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and
- (ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps.

(C) Continuing compliance

- (i) Termination of preferential treatment

If, after making a certification under subparagraph (A), the President determines that Haiti is no longer meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

- (ii) Subsequent compliance

If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

(2) Labor Ombudsman

(A) In general

The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

- (i) reports directly to the President of Haiti;
- (ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and
- (iii) is vested with the authority to perform the functions described in subparagraph (B).

(B) Functions

The functions of the Labor Ombudsman's Office shall include—

- (i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);
- (ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

(3) Technical assistance improvement and compliance needs assessment and remediation program

(A) In general

The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

(ii) to provide assistance to improve the capacity of the Government of Haiti—

(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

(B) Conditions described

The conditions referred to in subparagraph (A) are—

(i) compliance with core labor standards; and

(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

(C) Requirements

The requirements for the TAICNAR Program are that the program—

(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

(I) conducting unannounced site visits to manufacturing facilities of the producer;

(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

(aa) the results of the assessment carried out under this clause; and

(bb) specific suggestions for remediating any such deficiencies;

(iv) assist the producer in remediating any deficiencies identified under clause (iii);

(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

(D) Biannual report

The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

(iii) For each producer listed under clause (ii)—

(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

(E) Capacity building

The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

- (iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;
- (v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);
- (vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and
- (vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

(4) Compliance with eligibility criteria

(A) Country compliance with worker rights eligibility criteria

In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

(B) Producer eligibility

(i) Identification of producers

Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

(ii) Assistance to producers; withdrawal, etc., of preferential treatment

For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

(iii) Reinstating preferential treatment

If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential treatment under subsection (b) to the articles of the producer.

(iv) Consideration of reports

In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

(5) Reports by the President

(A) In general

Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

(B) Matters to be included

Each report required by subparagraph (A) shall include the following:

- (i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.
- (ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.
- (iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

(6) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection the sum of \$10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.

(f) Conditions regarding enforcement of circumvention

(1) In general

The preferential treatment under subsection (b)(1) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

- (A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.
- (B) Haiti has enacted legislation or promulgated regulations that would permit U.S. Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.
- (C) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.
- (D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.
- (E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of such articles, including materials used in the production, for at least 5 years after the production or export (as the case may be).
- (F) Haiti agrees to report, on a timely basis, at the request of U.S. Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

(2) Definition of transshipment

Transshipment within the meaning of this subsection has occurred when preferential treatment for a textile or apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under this section.

(3) Limitation on goods shipped from the Dominican Republic

(A) Limitation

Notwithstanding subsection (a)(5), relating to the definition of “imported directly from Haiti or the Dominican Republic”, articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be “imported directly from Haiti or the Dominican Republic” until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent

unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

(B) Technical and other assistance

The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).

(g) Regulations

The President shall issue regulations to carry out this section not later than 180 days after December 20, 2006. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such regulations.

(h) Termination

Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.

Footnotes

¹ So in original. The closing quotation marks probably should precede the period.

² So in original. Probably should refer to cl. (i) of this subparagraph.

(Pub. L. 98–67, title II, § 213A, as added Pub. L. 109–432, div. D, title V, § 5002(a), Dec. 20, 2006, 120 Stat. 3181; amended Pub. L. 110–234, title XV, §§ 15402–15405, May 22, 2008, 122 Stat. 1527–1545; Pub. L. 110–246, § 4(a), title XV, §§ 15402–15405, June 18, 2008, 122 Stat. 1664, 2289–2307; Pub. L. 110–436, § 7, Oct. 16, 2008, 122 Stat. 4981.)

References in Text

This chapter, referred to in subsec. (b)(1)(D), (2)(A)(iii), (B)(iv), (6), was in the original “this title”, meaning title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 2701 of this title and Tables.

Proclamation 8213 of the President of December 20, 2007, referred to in subsec. (b)(3)(B), is Proc. No. 8213, Dec. 20, 2007, 72 F.R. 73555. Par. (4) of Proclamation 8213 appears as a paraphrased Delegation of Functions note under section 4033 of this title.

The date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, referred to in subsec. (e)(1)(A), (5)(A), is the date of enactment of part I (§§ 15401–15412) of subtitle D of title XV of Pub. L. 110–246, which was approved June 18, 2008.

Codification

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Amendments

2008—Subsec. (a)(2). Pub. L. 110–246, § 15403(1)(C), added par. (2). Former par. (2) redesignated (4).

Subsec. (a)(3). Pub. L. 110–246, § 15403(1)(C), added par. (3). Former par. (3) redesignated (5).

Pub. L. 110–246, § 15402(f)(2), added par. (3).

Subsec. (a)(4). Pub. L. 110–246, § 15403(1)(B), redesignated par. (2) as (4). Former par. (4) redesignated (6).

Pub. L. 110–246, § 15402(f)(2), added par. (4).

Subsec. (a)(5). Pub. L. 110–246, § 15403(1)(B), redesignated par. (3) as (5). Former par. (5) redesignated (8).

Pub. L. 110–246, § 15402(f)(2), added par. (5).

Subsec. (a)(6). Pub. L. 110–246, § 15403(1)(B), redesignated par. (4) as (6).

Subsec. (a)(7). Pub. L. 110–246, § 15403(1)(D), added par. (7).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (a)(8). Pub. L. 110–246, § 15403(1)(A), redesignated par. (5) as (8).

Subsec. (b). Pub. L. 110–246, § 15402(a)(5), (b), (c), as amended by Pub. L. 110–436, § 7(1), added pars. (1)(D), (2), and (3).

Pub. L. 110–246, § 15402(a)(4), as amended by Pub. L. 110–436, § 7(1), redesignated par. (3) as subpar. (C) of par. (1), realigned margins, substituted “subparagraph (A)” for “paragraph (1)” in two places, in table substituted “1.25 percent” for “1.5 percent” during the third applicable 1-year period, “1.25 percent” for “1.75 percent” during the fourth applicable 1-year period, and “1.25 percent” for “2 percent” during the fifth applicable 1-year period.

Pub. L. 110–246, § 15402(a)(3), as amended by Pub. L. 110–436, § 7(1), redesignated par. (2) as subpar. (B) of par. (1), redesignated former subpars. as cls., former cls. as subcls., former subcls. as items, and former items as subitems, realigned margins, made conforming changes to references in text, in par. (1)(B)(iii)(II) substituted “that enters into force thereafter” for “that enters into force under the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.)”, amended par. (1)(B)(iv)(IV) generally, in par. (1)(B)(vi) substituted “U.S. Customs and Border Protection” for “The Bureau of Customs and Border Protection” in subcl. (I) and for “the Bureau of Customs and Border Protection” in subcl. (II) and in two places in subcl. (III), and in par. (1)(B)(vii)(I)(bb)(DD) substituted “with respect to the United States” for “under the Bipartisan Trade Promotion Authority Act of 2002”.

Pub. L. 110–246, § 15402(a)(2), as amended by Pub. L. 110–436, § 7(1), amended par. (1) generally. Prior to amendment, text read as follows: “In addition to any other preferential treatment under this chapter, apparel articles described in paragraph (2) of a producer or entity controlling production that are imported directly from Haiti shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in paragraphs (2) and (3), if Haiti has met the requirements of subsections (d) and (e).”

Pub. L. 110–246, § 15402(a)(1), as amended by Pub. L. 110–436, § 7(1), substituted “Apparel and other textile articles” for “Apparel articles” in heading.

Subsec. (b)(4). Pub. L. 110–246, § 15402(d), as amended by Pub. L. 110–436, § 7(2), added par. (4).

Pub. L. 110–246, § 15402(b), as amended by Pub. L. 110–436, § 7(1), struck out par. (4) which related to special rule for certain woven apparel articles classifiable under chapter 62 of the HTS, as in effect on Dec. 20, 2006.

Subsec. (b)(5). Pub. L. 110–246, § 15402(c), (e), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “The preferential treatment under paragraph (1) shall, subject to the limitations under paragraph (3), be extended to any article classifiable under heading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in Haiti or the United States, or both, without regard to the source of the fabric or components from which the article is made, and if Haiti has met the requirements of subsections (d) and (e).”

Subsec. (b)(6). Pub. L. 110–246, § 15402(f)(1), added par. (6).

Subsec. (d)(4). Pub. L. 110–246, § 15404, added par. (4).

Subsec. (e). Pub. L. 110–246, § 15403(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 110–246, § 15402(h), substituted “U.S. Customs and Border Protection” for “the Bureau of Customs and Border Protection” wherever appearing.

Subsec. (f). Pub. L. 110–246, § 15403(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 110–246, § 15405, added par. (3).

Subsec. (g). Pub. L. 110–246, § 15403(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Pub. L. 110–246, § 15402(g), added subsec. (g).

Subsec. (h). Pub. L. 110–246, § 15403(2), redesignated subsec. (g) as (h).

Effective Date of 2008 Amendment

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XV, § 15412, May 22, 2008, 122 Stat. 1547, and Pub. L. 110–246, § 4(a), title XV, § 15412, June 18, 2008, 122 Stat. 1664, 2309, provided that:

“(a) In General.—Except as provided in subsection (b), this part [part I (§§ 15401–15412) of subtitle D of title XV of Pub. L. 110–246, amending this section and section 2703 of this title and enacting provisions set out as notes under this section and section 2701 of this title] and the amendments made by this part shall take effect on the date of the enactment of this Act [June 18, 2008].

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(b) Exception.—The amendments made by section 15402 [amending this section] shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Effective Date

Section applicable to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 5006 of Pub. L. 109–432, set out as an Effective Date of 2006 Amendment note under section 2703 of this title.

Regulations

Pub. L. 110–234, title XV, § 15407, May 22, 2008, 122 Stat. 1546, and Pub. L. 110–246, § 4(a), title XV, § 15407, June 18, 2008, 122 Stat. 1664, 2308, provided that: “The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404 [amending this section]. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402 (d) not later than September 30, 2008.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Delegation of Functions

Proc. No. 8296, Sept. 30, 2008, 73 F.R. 57476, provided in par. (3) that the United States Trade Representative is authorized to perform the functions under subsec. (d)(4) of this section, the reporting function under subsec. (e)(1)(B)(ii) of this section, the consultation function under subsec. (e)(1)(C)(i) of this section, and the functions under subsec. (e)(5) of this section and provided in par. (4) that the Secretary of Labor, in consultation with the United States Trade Representative, is authorized to perform the functions under subsec. (e)(4)(B)(i), (ii) of this section.

Proc. No. 8114, Mar. 19, 2007, 72 F.R. 13656, provided in par. (5) that the Secretary of the Treasury is authorized to perform the functions assigned to the President under subsec. (f) of this section.

Presidential Proclamation Authority

Pub. L. 110–234, title XV, § 15406, May 22, 2008, 122 Stat. 1546, and Pub. L. 110–246, § 4(a), title XV, § 15406, June 18, 2008, 122 Stat. 1664, 2308, provided that: “The President may exercise the authority under section 604 of the Trade Act of 1974 [19 U.S.C. 2483] to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part [part I (§§ 15401–15412) of subtitle D of title XV of Pub. L. 110–246, amending this section and section 2703 of this title and enacting provisions set out as notes under this section and section 2701 of this title] and the amendments made by this part.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]