

TITLE II--TRADE BENEFITS FOR CARIBBEAN BASIN

Subtitle B--Trade Benefits for Caribbean Basin Countries

SEC. 211. TEMPORARY PROVISIONS TO PROVIDE ADDITIONAL TRADE BENEFITS TO CERTAIN BENEFICIARY COUNTRIES.

(a) TEMPORARY PROVISIONS.--Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

•(b) IMPORT-SENSITIVE ARTICLES.--

•(1) In general.--Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to--

•(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

•(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

•(C) tuna, prepared or preserved in any manner, in airtight containers;

•(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

•(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

•(F) articles to which reduced rates of duty apply under subsection (h).

•(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.--

•(A) ARTICLES COVERED.--During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:

•(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.--Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are--

•(I) entered under subheading 9802.00.80 of the HTS; or

•(II) entered under chapter 61 or 62 of the HTS, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.

•(ii) APPAREL ARTICLES CUT AND ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.--Apparel articles cut in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States), if such articles are

assembled in one or more such countries with thread formed in the United States.

•(iii) CERTAIN KNIT APPAREL ARTICLES.--

(I) Apparel articles knit to shape (other than socks provided for in heading 6115 of the HTS) in a CBTPA beneficiary country from yarns wholly formed in the United States, and knit apparel articles (other than t-shirts described in subclause (III)) cut and wholly assembled in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries or the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more CBTPA beneficiary countries), in an amount not exceeding the amount set forth in subclause (II).

•(II) The amount referred to in subclause (I) is--

•(aa) 250,000,000 square meter equivalents during the 1-year period beginning on October 1, 2000, increased by 16 percent, compounded annually, in each succeeding 1-year period through September 30, 2004; and

•(bb) in each 1-year period thereafter through September 30, 2008, the amount in effect for the 1-year period ending on September 30, 2004, or such other amount as may be provided by law.

•(III) T-shirts, other than underwear, classifiable under subheadings 6109.10.00 and 6109.90.10 of the HTS, made in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (IV).

•(IV) the amount referred to in subclause (III) is--

•(aa) 4,200,000 dozen during the 1-year period beginning on October 1, 2000, increased by 16 percent, compounded annually, in each succeeding 1-year period through September 30, 2004; and

•(bb) in each 1-year period thereafter, the amount in effect for the 1-year period ending on September 30, 2004, or such other amount as may be provided by law.

•(V) It is the sense of the Congress that the Congress should determine, based on the record of expansion of exports from the United States as a result of the preferential treatment of articles under this clause, the percentage by which the amount provided in subclauses (II) and (IV) should be compounded for the 1-year periods occurring after the 1-year period ending on September 30, 2004.

•(iv) CERTAIN OTHER APPAREL ARTICLES.--

(I) Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of the CBTPA beneficiary countries, or both.

•(II) During the 1-year period beginning on October 1, 2001, and during each of the six succeeding 1-year periods, apparel articles

described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

- (III) The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity in the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

- (v) APPAREL ARTICLES ASSEMBLED FROM FABRICS OR YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES.--

(I) Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA.

- (II) At the request of any interested party, the President is authorized to proclaim additional fabrics and yarn as eligible for preferential treatment under subclause (I) if--

- (aa) the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner;

- (bb) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

- (cc) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such actions, and the advice obtained under division (bb);

- (dd) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of

division (cc), has expired; and

- (ee) the President has consulted with such committees regarding the proposed action during the period referred to in division (cc).

- (vi) HANDLOOMED, HANDMADE, AND FOLKLORE

ARTICLES.--A handloomed, handmade, or folklore article of a CBTPA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

- (vii) SPECIAL RULES.--

- (I) EXCEPTION FOR FINDINGS AND TRIMMINGS.--

- (aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.

- (bb) In the case of an article described in clause (ii) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.

- (II) CERTAIN INTERLINING.--

- (aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

- (bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

- (cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

- (III) DE MINIMIS RULE.--An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains fibers or yarns not wholly formed in the United States or in one or more CBTPA beneficiary countries shall not be ineligible for such treatment if the total weight of all such fibers or yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.

- (IV) SPECIAL ORIGIN RULE.--An article otherwise eligible for preferential treatment under clause (i) or (ii) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

- (viii) TEXTILE LUGGAGE.--Textile luggage--

- (I) assembled in a CBTPA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

- (II) assembled from fabric cut in a CBTPA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

- (B) PREFERENTIAL TREATMENT.--Except as provided in subparagraph (E), during the transition period, the articles to which this subparagraph applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.

- (C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES. • For purposes of subparagraph (A)(vi), the President shall consult with representatives of the CBTPA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

- (D) PENALTIES FOR TRANSSHIPMENTS.--

- (i) PENALTIES FOR EXPORTERS.--If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel articles from a CBTPA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

- (ii) PENALTIES FOR COUNTRIES.--Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the CBTPA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

- (iii) TRANSSHIPMENT DESCRIBED. • Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (B) has been claimed for a textile or apparel article 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 clause, 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 subparagraph (B).

•(E) BILATERAL EMERGENCY ACTIONS.--

•(i) IN GENERAL.--The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from a CBTPA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

•(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.--For purposes of applying bilateral emergency action under this subparagraph--

•(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

•(II) the term 'transition period' in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and

•(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the CBTPA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

•(3) TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.--

•(A) EQUIVALENT TARIFF TREATMENT.--

•(i) IN GENERAL.--Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that is a CBTPA originating good shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.

•(ii) EXCEPTION.--Clause (i) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

•(B) RELATIONSHIP TO SUBSECTION (h) DUTY REDUCTIONS.--If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

•(4) CUSTOMS PROCEDURES.--

•(A) IN GENERAL.--

•(i) REGULATIONS.--Any importer that claims preferential treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations

promulgated by the Secretary of the Treasury.

•(ii) DETERMINATION.--

•(I) IN GENERAL.--In order to qualify for the preferential treatment under paragraph (2) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)--

•(aa) has implemented and follows; or

•(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

•(II) COUNTRY DESCRIBED.--A country is described in this subclause if it is a CBTPA beneficiary country--

•(aa) from which the article is exported; or

•(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (2) or (3).

•(B) CERTIFICATE OF ORIGIN.--The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

•(C) REPORT BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.--The United States Commissioner of Customs shall conduct a study analyzing the extent to which each CBTPA beneficiary country--

•(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

•(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

•(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to Congress, not later than October 1, 2001, a report on the study conducted under this subparagraph.

•(5) DEFINITIONS AND SPECIAL RULES.--For purposes of this subsection--

•(A) ANNEX.--The term •the Annex• means Annex 300-B of the NAFTA.

•(B) CBTPA BENEFICIARY COUNTRY.--The term •CBTPA beneficiary country• means any •beneficiary country•, as defined in section 212(a)(1)(A) of this

title, which the President designates as a CBTPA beneficiary country, taking into account the criteria contained in subsections (b) and (c) of section 212 and other appropriate criteria, including the following:

- (i) Whether the beneficiary country has demonstrated a commitment to--

- (I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

- (II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

- (ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

- (iii) The extent to which the country provides internationally recognized worker rights, including--

- (I) the right of association;

- (II) the right to organize and bargain collectively;

- (III) a prohibition on the use of any form of forced or compulsory labor;

- (IV) a minimum age for the employment of children; and

- (V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

- (iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

- (v) The extent to which the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

- (vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

- (vii) The extent to which the country--

- (I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

- (II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

- (C) CBTPA ORIGINATING GOOD.--

- (i) IN GENERAL.--The term 'CBTPA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law.

- (ii) APPLICATION OF CHAPTER 4.--In applying chapter 4 of the NAFTA with respect to a CBTPA beneficiary country for purposes of this subsection--

- (I) no country other than the United States and a CBTPA beneficiary country may be treated as being a party to the NAFTA;

- (II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and a CBTPA beneficiary country;
- (III) any reference to a party shall be deemed to refer to a CBTPA beneficiary country or the United States; and
- (IV) any reference to parties shall be deemed to refer to any combination of CBTPA beneficiary countries or to the United States and one or more CBTPA beneficiary countries (or any combination thereof).
- (D) TRANSITION PERIOD.--The term `transition period' means, with respect to a CBTPA beneficiary country, the period that begins on October 1, 2000, and ends on the earlier of--
 - (i) September 30, 2008; or
 - (ii) the date on which the FTAA or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in 108(b)(5) of Public Law 103-182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the CBTPA beneficiary country.
- (E) CBTPA.--The term `CBTPA' means the United States-Caribbean Basin Trade Partnership Act.
- (F) FTAA.--The term `FTAA' means the Free Trade Area of the Americas."

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.--Section 212(e) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended--

(1) in paragraph (1)--

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting •(A)" after •(1)"; and

(C) by adding at the end the following:

•(B) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met--

•(i) withdraw or suspend the designation of any country as a CBTPA beneficiary country; or

•(ii) withdraw, suspend, or limit the application of preferential treatment under section 213(b)(2) and (3) to any article of any country, if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 213(b)(5)(B)."; and

(2) by adding after paragraph (2) the following new paragraph:

•(3) If preferential treatment under section 213(b)(2) and (3) is withdrawn, suspended, or limited with respect to a CBTPA beneficiary country, such country shall not be deemed to be a `party' for the purposes of applying section 213(b)(5)(C) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country."

(c) REPORTING REQUIREMENTS.--

(1) Section 212(f) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(f)) is amended to read as follows:

•(f) REPORTING REQUIREMENTS.--

•(1) IN GENERAL.--Not later than December 31, 2001, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this title, including--

•(A) with respect to subsections (b) and (c), the results of a general review of

beneficiary countries based on the considerations described in such subsections; and

- (B) the performance of each beneficiary country or CBTPA beneficiary country, as the case may be, under the criteria set forth in section 213(b)(5)(B).

- (2) PUBLIC COMMENT.--Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 213(b)(5)(B)."

(2) Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended--

- (A) by striking "Triennial Report" in the heading and inserting "Report"; and

- (B) by striking "On or before" and all that follows through "enactment of this title" and inserting "Not later than January 31, 2001".

(d) INTERNATIONAL TRADE COMMISSION REPORTS.--

(1) Section 215(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2704(a)) is amended to read as follows:

- (a) REPORTING REQUIREMENT.--

- (1) IN GENERAL.--The United States International Trade Commission (in this section referred to as the "Commission") shall submit to Congress and the President biennial reports regarding the economic impact of this title on United States industries and consumers and on the economy of the beneficiary countries.

- (2) FIRST REPORT.--The first report shall be submitted not later than September 30, 2001.

- (3) TREATMENT OF PUERTO RICO, ETC.--For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries."

(2) Section 206(a) of the Andean Trade Preference Act (19 U.S.C. 3204(a)) is amended to read as follows:

- (a) REPORTING REQUIREMENTS.--

- (1) IN GENERAL.--The United States International Trade Commission (in this section referred to as the "Commission") shall submit to Congress and the President biennial reports regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries.

- (2) SUBMISSION.--During the period that this title is in effect, the report required by paragraph (1) shall be submitted on December 31 of each year that the report required by section 215 of the Caribbean Basin Economic Recovery Act is not submitted.

- (3) TREATMENT OF PUERTO RICO, ETC.--For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries."