

S 1307

Dominican Republic-Central America-United States Free Trade Agreement Implementation Act

Congress: 109 (2005–2007, Ended)

Chamber: Senate

Policy Area: Foreign Trade and International Finance

Introduced: Jun 23, 2005

Current Status: By Senator Grassley from Committee on Finance filed written report under authority of the order of t

Latest Action: By Senator Grassley from Committee on Finance filed written report under authority of the order of the Senate of 07/29/2005. Report No. 109-128. (Aug 31, 2005)

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Sponsor

Name: Sen. Grassley, Chuck [R-IA]

Party: Republican • **State:** IA • **Chamber:** Senate

Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Frist, William H. [R-TN]	R · TN		Jun 23, 2005
Sen. Reid, Harry [D-NV]	D · NV		Jun 23, 2005

Committee Activity

Committee	Chamber	Activity	Date
Finance Committee	Senate	Reported By	Jun 29, 2005

Subjects & Policy Tags

Policy Area:

Foreign Trade and International Finance

Related Bills

Bill	Relationship	Last Action
109 HR 3045	Related bill	Sep 7, 2005: Committee Hearings Held.

(This measure has not been amended since it was introduced. The expanded summary of the Senate reported version is repeated here.)

Dominican Republic-Central America-United States Free Trade Agreement Implementation Act - **Title I: Approval of, and General Provisions Relating to, the Agreement** - (Sec. 101) Approves the Dominican Republic-Central America-United States-Free Trade Agreement entered into on August 5, 2005, with the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (CAFTA-DR), and the statement of administrative action proposed to implement the Agreement, both submitted to Congress on XX, 2005.

(Sec. 103) Authorizes the President to proclaim actions, and other appropriate officers of the U.S. government to issue regulations, necessary to ensure that any provision of this Act that takes effect on the date the Agreement enters into force is appropriately implemented. Declares that proclaimed actions that are not subject to consultation and layover requirements under this Act shall not take effect before the 15th day after the text of the proclamation is published in the Federal Register. Provides that presidential proclamations calling for action under this Act may be proclaimed only if: (1) the President has obtained advice regarding the proposed action from the appropriate advisory committees and the U.S. International Trade Commission (ITC); (2) the President has reported to specified congressional committees with respect to such action; (3) a period of 60 days has expired; and (4) the President has consulted with the appropriate congressional committees during such 60-day period.

(Sec. 105) Authorizes the President to establish or designate within the Department of Commerce an office to provide administrative assistance to dispute settlement panels established under the Agreement. Authorizes appropriations.

(Sec. 106) Authorizes the United States to resolve any claim against it covered by the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in the Agreement.

(Sec. 107) Provides that, during any period in which a country ceases to be a CAFTA-DR country, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect with respect to that country.

Title II: Customs Provisions - (Sec. 201) Authorizes the President to proclaim necessary or appropriate modifications or continuation of duty, continuation of duty-free or excise treatment, or additional duties to carry out the Agreement.

Requires the President to terminate the designation of each CAFTA-DR country as a beneficiary developing country for purposes of the Trade Act of 1974 and the Caribbean Basin Economic Recovery Act (CBERA) on the date the Agreement enters into force with respect to that country. Considers each country nonetheless a CBERA beneficiary country for purposes of: (1) the Tariff Act of 1930; (2) the duty-free treatment provided in the Agreement; and (3) the Internal Revenue Code.

Authorizes the President, subject to the consultation and layover requirements of this Act, to deem as necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement such: (1) modifications or continuation of any duty; (2) modifications as the United States may agree to with a CAFTA-DR country regarding the staging of any duty treatment specified in the Agreement; (3) continuation of duty-free or excise treatment; or (4) additional duties.

Allows the President to substitute for the base rate an ad valorem rate deemed to be equivalent to the base rate with

respect to any good for which such rate in the Agreement is a specific or compound rate of duty.

(Sec. 202) Provides for additional duties, under specified conditions, and until scheduled duty-free treatment must be provided, on certain agricultural safeguard goods.

(Sec. 203) Prescribes certain rules of origin with respect to the reduction and elimination of duties imposed by the United States and a CAFTA-DR country on certain goods wholly obtained or produced entirely in the territory of the other country. Specifies content requirements allowing certain textile and apparel goods to be considered originating goods. Prescribes a special rule for certain automotive goods.

(Sec. 204) Amends the Consolidated Omnibus Budget Reconciliation Act of 1985 to prohibit the charge of a fee for certain customs services with respect to goods imported from, and originating in, a CAFTA-DR country. Prohibits any service exempted from such fees from being funded with money from the Customs User Fee Account.

(Sec. 205) Prescribes requirements for: (1) retroactive application for liquidations and reliquidations of certain entries of textile or apparel goods of an eligible CAFTA-DR country; and (2) a refund of any duty owed.

(Sec. 206) Amends the Tariff Act of 1930 to exempt: (1) an importer from penalties for making an incorrect claim that a good qualifies as an originating good under the Agreement if the importer voluntarily and promptly makes a corrected declaration and pays any duties owing; and (2) an exporter or producer from penalties for making false certifications of origin under the Agreement if such person, promptly after issuing such certification, has reason to believe that it contains or is based on incorrect information, and voluntarily provides a written notice to every recipient of it. Exempts persons from penalties if: (1) the information was correct at the time it was provided in a CAFTA-DR certification of origin but was later rendered incorrect because of a change in circumstances; and (2) the person promptly and voluntarily provides written notice of the change in circumstances to all recipients of such certification.

Provides that, if the Bureau of Customs and Border Protection (BCBP) or the Bureau of Immigration and Customs Enforcement (BICE) finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin, the BCBP may suspend preferential tariff treatment under the Agreement for entries of identical goods covered by subsequent representations by the individuals until it determines that the representations conform with such rules.

(Sec. 207) Authorizes the Customs Service to reliquidate an entry and refund any excess duties (including merchandise processing fees) paid on a good qualifying under the rules of origin for which no claim for preferential treatment was made at the time of importation if the importer takes certain actions within one year after such importation.

(Sec. 208) Requires persons who issue a CAFTA-DR certification of origin for a good exported from the United States to make, keep for at least five years after such certification is issued, and render for examination and inspection all records and supporting documents related to such certification.

(Sec. 209) Authorizes the President to direct the Secretary of the Treasury, during the period of a verification procedure by the government of a CAFTA-DR country, to determine: (1) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods; or (2) that a claim is accurate that such a good exported or produced by the exporter or producer qualifies as an originating good, or is a good of a CAFTA-DR country.

Requires the Secretary to: (1) suspend preferential tariff treatment under the Agreement of any textile or apparel good

that a person subject to such verification has produced or exported if the Secretary believes there is sufficient information to sustain a claim for such treatment; (2) deny preferential treatment to such goods if the Secretary decides that a person has provided incorrect information to support a claim for such treatment; (3) detain such goods if the Secretary considers there is insufficient information to determine their country of origin; and (4) deny entry to such goods if the Secretary determines that a person has provided erroneous information of their origin.

Authorizes: (1) the President to deny preferential treatment and entry into the United States to such textile and apparel goods, if the Secretary determines that the information obtained from verification is insufficient to make a determination; and (2) the Secretary to publish the name of any person engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in such goods, or who has failed to demonstrate that it produces or is capable of producing them.

Title III: Relief From Imports - Subtitle A: Relief From Imports Benefiting From the Agreement - (Sec. 311)

Authorizes an entity (including a trade association, firm, certified or recognized union, or group of workers) to petition the ITC for an adjustment to U.S. obligations under the Agreement. Requires the ITC, upon the filing of a petition, to investigate promptly whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a CAFTA-DR article is being imported into the United States in such increased quantities as to be a substantial cause or threat of serious injury to the domestic industry producing an article like, or directly competitive with, the imported article. Exempts from such an investigation any CAFTA-DR articles receiving import relief under the Agreement.

(Sec. 313) Requires the President, after receiving an affirmative injury determination from the ITC, to provide certain four-year import relief to remedy or prevent such injury, and to facilitate efforts of the domestic industry to make a positive adjustment to import competition. Includes among such relief measures: (1) suspension of any further reduction provided by the Agreement in the duty imposed on such article; and (2) an increase in the rate of duty imposed on such article to a level that does not exceed an amount determined according to a specified formula.

(Sec. 314) Prohibits any import relief 10 years after the Agreement enters into force, except for articles whose period for tariff elimination exceeds 10 years.

(Sec. 315) Applies to the four-year import relief provided by the President the compensation authority of the Trade Act of 1974, which authorizes the President to grant CAFTA-DR countries new concessions as compensation for the imposition of import relief in a bilateral safeguard investigation in order to maintain the general level of reciprocal concessions under the Agreement.

Sec. 316) Amends the Trade Act of 1974 to apply to ITC investigations conducted under this Act the procedural requirements of the Tariff Act of 1930 concerning release of confidential business information.

Subtitle B: Textile and Apparel Safeguard Measures - (Sec. 321) Authorizes an interested party to request the President to adjust U.S. obligations under the Agreement. Requires the President, pursuant to such a request, to determine whether, as a result of the elimination of a duty under the Agreement, a CAFTA-DR textile or apparel article is being imported into the United States in such increased quantities as to constitute a substantial cause or threat of serious damage to a domestic industry producing an article like, or directly competitive with, the imported article. Requires such determination within 30 days after the completion of any consultations held pursuant to the Agreement.

(Sec. 322) Authorizes the President, if an affirmative serious damage determination is made, to provide certain import relief to remedy or prevent the damage and to facilitate adjustment by the domestic industry, including to increase the rate of duty imposed on the article to a level that does not exceed an amount determined according to a specified

formula.

(Sec. 323) Limits such relief to three years.

(Sec. 326) Prohibits any import relief under this subtitle with respect to any article five years after the Agreement enters into force.

(Sec. 327) Applies to any import relief provided by the President under this subtitle the compensation authority of the Trade Act of 1974, which authorizes the President to grant a CAFTA-DR country new concessions as compensation for the imposition of import relief in a textile and apparel safeguard proceeding, in order to maintain the general level of reciprocal concessions under the Agreement.

(Sec. 328) Prohibits the President from releasing confidential business information received in connection with a review under this subtitle unless the submitting party had notice, at the time of submission, that such information would be released, or the party subsequently consents to such release. Requires any party submitting such confidential business information also to provide a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C: Cases Under Title II of the Trade Act of 1974 - (Sec. 331) Requires the ITC, whenever it makes an affirmative determination that an imported article constitutes a substantial cause or threat of serious injury to a domestic industry producing an article like or directly competitive with it, also to find (and report to the President) whether imports from CAFTA-DR countries that qualify as originating goods are a substantial cause or threat of serious injury to such industry. Authorizes the President to exclude goods of a CAFTA-DR country from any import relief action if they are not a substantial cause or threat of serious injury to the domestic industry.

Title IV: Miscellaneous - (Sec. 401) Amends the Trade Agreements Act of 1979 to include among eligible products for U.S. government procurement a covered product or service of a foreign country or instrumentality that is a party to the Agreement.

(Sec. 402) Amends the Caribbean Basin Economic Recovery Act (CBERA) to define "former beneficiary country" as a country that ceases to be designated as a beneficiary country under the Act because the country has become a party to a free trade agreement with the United States.

Removes the CAFTA-DR countries from CBERA's list of countries eligible for designation as beneficiary countries.

Modifies CBERA's formula for determining rules of origin for duty-free treatment of eligible articles to include articles from former beneficiary countries.

Defines "former United States-Caribbean Basin Trade Partnership Act (CBTPA) beneficiary country" as a country that ceases to be designated as a CBTPA beneficiary country under CBERA because the country has become a party to a free trade agreement with the United States.

Makes articles from former CBTPA beneficiary countries eligible for preferential treatment if the article, or a good used in the production of the article, undergoes production in a CBTPA beneficiary country. Declares that such an article shall not be ineligible for preferential treatment because it is imported directly from a former CBTPA beneficiary country.

Declares that an article that is a good of a former CBTPA beneficiary country for purposes of the Tariff Act of 1930 or the Uruguay Round Agreements Act, as the case may be, shall not be eligible for preferential treatment, unless: (1) it is a

good of the Dominican Republic under this Act; and (2) the article, or a good used in its production, undergoes production in Haiti.

(Sec. 403) Requires the President to report to Congress biennially, for 14 years, on the progress made by the CAFTA-DR countries in implementing: (1) Chapter Sixteen and Annex 16.5 of the Agreement; and (2) the April 2005 report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled "The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity" (the White Paper). Specifies the contents of such report.

Requires the Secretary of Labor to take the necessary steps to meet periodically with the labor ministers of the CAFTA-DR countries to discuss: (1) the operation of the labor provisions of the Agreement; (2) progress on the commitments made by the CAFTA-DR countries to implement the White Paper recommendations; (3) the work of the International Labor Organization in the CAFTA-DR countries, and other cooperative efforts, to afford to workers internationally-recognized worker rights; and (4) such other appropriate matters.

Directs the President to include summaries of the meetings in each biennial report.

Actions Timeline

- **Aug 31, 2005:** By Senator Grassley from Committee on Finance filed written report under authority of the order of the Senate of 07/29/2005. Report No. 109-128.
- **Aug 31, 2005:** By Senator Grassley from Committee on Finance filed written report under authority of the order of the Senate of 07/29/2005. Report No. 109-128.
- **Jun 30, 2005:** Measure laid before Senate by unanimous consent. (consideration: CR S7647-7695, CR 7/1/2005 S7697-7739, S7750-7766)
- **Jun 30, 2005:** Passed/agreed to in Senate: Passed Senate without amendment by Yea-Nay Vote. 54 - 45. Record Vote Number: 170.(text: CR 7/1/2005 S7755-7765)
- **Jun 30, 2005:** Passed Senate without amendment by Yea-Nay Vote. 54 - 45. Record Vote Number: 170. (text: CR 7/1/2005 S7755-7765)
- **Jun 29, 2005:** Committee on Finance. Ordered to be reported without amendment favorably.
- **Jun 29, 2005:** Committee on Finance. Reported by Senator Grassley without amendment. Without written report.
- **Jun 29, 2005:** Committee on Finance. Reported by Senator Grassley without amendment. Without written report.
- **Jun 29, 2005:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 149.
- **Jun 29, 2005:** Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 61 - 34. Record Vote Number: 169. (consideration: CR S7598-7605)
- **Jun 29, 2005:** Measure laid before Senate by motion.
- **Jun 28, 2005:** Committee on Finance. Committee consideration and Mark Up Session held.
- **Jun 23, 2005:** Introduced in Senate
- **Jun 23, 2005:** Read twice and referred to the Committee on Finance pursuant to section 2103(b)(3) of Public Law 107-210.