

United States International Trade Commission

Earned Import  
Allowance Program:  
Evaluation of the  
Effectiveness of the  
Program for Certain  
Apparel from the  
Dominican Republic  
Third Annual Review

Investigation No. 332-503

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# U.S. International Trade Commission

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# **U.S. International Trade Commission**

Washington, DC 20436  
*www.usitc.gov*

## **Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic Third Annual Review**

Investigation No. 332-503



*This report was prepared principally by the Office of Industries*

***Project Leader***

Laura Rodriguez

[Laura.Rodriguez@usitc.gov](mailto:Laura.Rodriguez@usitc.gov)

***Deputy Project Leader***

Kimberlie Freund

[Kimberlie.Freund@usitc.gov](mailto:Kimberlie.Freund@usitc.gov)

***Office of Economics***

Kyle Johnson

***Content Reviewers***

Heidi Colby-Oizumi

Jose Signoret

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Peg Hausman

***Administrative Support***

Brenda Carroll

***Office of Publishing***

***Under the direction of***

Dennis Rapkins, Chief

Chemicals and Textiles Division

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# Executive Summary

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This report contains the results of the Commission’s third annual review of the Earned Import Allowance Program (EIAP) for the Dominican Republic.<sup>1</sup> In these reports the Commission is required to evaluate the effectiveness of the EIAP and make recommendations for improvements. Three years after the implementation of the EIAP, the Government of the Dominican Republic and U.S. and Dominican apparel industry sources indicated that, as currently structured, the program is not providing enough incentives to help boost the competitiveness of Dominican apparel exports in the U.S. market, as intended. U.S. imports of woven cotton bottoms (pants and trousers, bib and brace overalls, breeches and shorts, and skirts and divided skirts) from the Dominican Republic continued to decline in 2011, and in the first quarter of 2012, in terms of both absolute levels and market share. While U.S. exports to the Dominican Republic of cotton fabrics of a weight suitable for making bottoms (“bottom-weight cotton fabrics”) grew during 2008–11, some of this increase, especially in the first two years of the program, consisted of foreign unfinished fabrics that were dyed and finished in the United States. For 2010–11, the rate of growth for U.S. exports of bottom-weight cotton fabrics slowed significantly from previous years.

## Overview of the EIAP

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The procedures and program requirements for the EIAP have not changed since the Commission’s second annual review of the program in 2011. The EIAP provides an uncapped benefit for duty-free U.S. imports of certain woven cotton bottoms. The bottoms must have been assembled in the Dominican Republic from foreign fabric, and they must be accompanied by a certificate documenting the purchase of certain U.S.-produced woven cotton fabric at a ratio of 2 for 1. Under this formula, for every 2 units of qualifying “wholly formed” fabric (defined as formed in the United States from U.S.-formed yarns) purchased for apparel production in the Dominican Republic, a 1-unit credit is received that can be used in the duty-free importation of apparel into the United States that has been manufactured using non-qualifying fabric.

## Evaluation of the EIAP

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Based on information available to the Commission, it appears that the EIAP has not provided enough incentives to curtail the ongoing declines in the Dominican Republic’s production and exports of woven cotton bottoms. Dominican industry sources reported that additional plants producing cotton bottoms closed and job layoffs continued in 2011. U.S. imports under the EIAP declined by over 39 percent in terms of quantity and 37 percent in terms of value during 2010–11. Twelve companies are registered to use the EIAP, the same as a year ago; only seven of the registered firms are currently using the program, also unchanged from the second annual review.

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<sup>1</sup>The reports are required by section 404(d) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) Implementation Act, as amended (the Act) (19 U.S.C. 4112(d)). Section 404(d) requires that the Commission evaluate the effectiveness of the EIAP and to make recommendations for improvements.

The extent to which the program has directly benefited U.S. fabric producers and their exports to the Dominican Republic remains unclear. Although the quantity of U.S. exports to the Dominican Republic of cotton bottom-weight fabrics grew by 5 percent during 2010–11, this growth rate was down from the previous two years. Most of the initial increase in U.S. fabric exports consisted of foreign unfinished fabrics that were dyed and finished in the United States. U.S. export data include not only fabrics wholly formed in the United States, but also foreign fabrics that are dyed and finished in the United States. The foreign fabrics that are dyed and finished in the United States are used to produce woven cotton bottoms in the Dominican Republic that are then exported to the United States using the credits earned from exporting qualifying U.S. fabrics to the Dominican Republic. Most of the credits used in the first two years of the program were earned retroactively from qualifying U.S. fabrics exported to the Dominican Republic before implementation of the program.

Further, U.S. textile firms indicated that global cotton shortages in 2011 temporarily boosted demand in general for U.S.-produced cotton fabrics in that year, suggesting that the small rise in exports of the subject fabrics to the Dominican Republic in 2011 was not necessarily attributable to the EIAP. For the first quarter 2012, U.S. exports of the subject fabrics to the Dominican Republic were less than one-half of the level of such exports for the first quarter 2011.

## **Recommendations Concerning the EIAP**

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During the third annual review of the EIAP, the Commission sought recommendations from industry and other sources concerning improvements to the EIAP. Recommendations offered during this review were the same as those received by the Commission during the first and second annual reviews. They are (1) lowering the 2-for-1 ratio of U.S. to foreign fabric to a 1-for-1 ratio; (2) including other types of fabrics and apparel items in the EIAP; and (3) changing the requirement that dyeing, finishing, and printing of qualifying fabrics take place in the United States.

# CHAPTER 1

## Introduction

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This report contains the results of the Commission’s third annual review of the Earned Import Allowance Program (EIAP) for the Dominican Republic. The EIAP was intended to improve the Dominican apparel industry’s competitiveness in the U.S. market by maintaining the economies of scale required to keep the industry viable.<sup>1</sup> The EIAP was also intended to increase the Dominican apparel industry’s access to textile inputs, most of which are imported and are sourced from U.S., Nicaraguan, and Asian suppliers, while creating incentives to boost U.S. exports of fabrics to the Dominican Republic.<sup>2</sup> This review is being conducted to evaluate the effectiveness of the EIAP and recommend ways to improve the program; it is required by section 404(d) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) Implementation Act, as amended (the Act) (19 U.S.C. 4112(d)).<sup>3</sup>

The Commission’s first annual review was delivered to the House Committee on Ways and Means and the Senate Committee on Finance in July 2010; the second annual review, in July 2011.<sup>4</sup> Like the first and second reviews, this review evaluates the effectiveness of the EIAP for the Dominican Republic, based on use of the program; provides data on trade between the United States and the Dominican Republic in the products in question (“subject products”); and sets out the EIAP’s reported effects on the U.S. and Dominican industries. The report also compiles recommendations for improving the program as suggested by U.S. and Dominican apparel producers, U.S. textile industry representatives, and Dominican government representatives.

## Program Overview and Product Coverage

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The procedures and program requirements for the EIAP have not changed since the Commission’s second annual review of the program. The EIAP authorizes certain apparel articles wholly assembled in the Dominican Republic to enter the United States free of

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<sup>1</sup> USITC hearing transcript, November 18, 2009, 6–8 (testimony of Scott Quesenberry, former Special Textile Negotiator, United States Trade Representative).

<sup>2</sup> Global Trade Atlas database (accessed various dates); Swift Gale, written submission to the USITC, November 18, 2009; USITC, hearing transcript, November 19, 2009, 23.

<sup>3</sup> Section 404 was added to the Act by section 2 of Public Law 110-436, approved October 16, 2008, “An act to extend the Andean Trade Preference Act, and for other purposes.” Section 404(d) requires the Commission to conduct annual reviews of the program “for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program,” and directs the Commission to transmit its reports on the results of these reviews to the House Committee on Ways and Means and the Senate Committee on Finance.

<sup>4</sup> The Commission’s first and second annual reviews are titled USITC, *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic*, and USITC, *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic; Second Annual Report*. Both are available on the Commission’s Web site at <http://www.usitc.gov/publications/332/pub4175.pdf> and <http://www.usitc.gov/publications/332/pub4246.pdf>. All of these annual reviews are classed as investigation no. 332-503.

duty if accompanied by a certificate confirming the purchase of certain U.S. fabric.<sup>5</sup> Specifically, with the exception of cotton denim bottoms,<sup>6</sup> the EIAP provides for duty-free imports of woven cotton pants and trousers, bib and brace overalls, breeches and shorts, and skirts and divided skirts (hereafter referred to as woven cotton bottoms) assembled in the Dominican Republic from foreign fabric, provided they are accompanied by a certificate documenting the purchase of certain U.S.-produced woven cotton fabric at a ratio of 2 for 1. Under this formula, for every 2 units of qualifying fabric purchased for apparel production in the Dominican Republic, a 1-unit credit is received that can be used to import apparel using non-qualifying fabric.

The qualifying fabrics that may be purchased to receive credits under the program encompass woven cotton fabrics wholly formed in the United States from yarns wholly formed in the United States that are suitable for use in the manufacture of eligible apparel articles. These fabrics include twills that are heavy enough to be used in the manufacture of bottoms (“bottom-weight fabrics”) classified in chapter 52 of the U.S. Harmonized Tariff Schedule (HTS), including denim.<sup>7</sup> The term “wholly formed” means that all production processes and finishing operations (i.e., dyeing, finishing, and printing) must take place in the United States, beginning with the weaving of the fabric and ending with a finished fabric ready for cutting or assembly and requiring no further processing.<sup>8</sup>

## Scope and Approach

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This report assesses the effectiveness of the EIAP through March 2012 and summarizes recommendations made by U.S. and Dominican industry and government sources on how to improve the program. Besides using available data and published materials on the U.S. and Dominican textile and apparel industries and bilateral trade, the report draws on information taken from written submissions received by the Commission and from interviews with representatives of companies, industry associations, and government organizations. During its investigation, the Commission sought comments on the EIAP and recommendations for improving the program via a *Federal Register* notice (appendix B). The Commission received three written submissions, which are included in appendix C and are also incorporated into the Commission’s report, as appropriate.

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<sup>5</sup> Apparel made in the Dominican Republic from U.S. fabric already enters the United States free of duty under the CAFTA-DR, but the EIAP extends duty-free treatment to specific apparel made with foreign fabric. For more information on CAFTA-DR and certain other trade preference programs, see *USITC, Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic: Second Annual Report*, 2011, 2-4.

<sup>6</sup> Cotton denim bottoms are excluded from preferential treatment under the EIAP.

<sup>7</sup> U.S.-produced denim fabrics that can earn export credits under the EIAP could be used to produce denim apparel in the Dominican Republic that is eligible for duty-free treatment in the United States under the standard CAFTA-DR provisions.

Also eligible for export credits are fabrics woven in the United States from foreign yarns deemed commercially unavailable in the United States, fabrics containing non-U.S. nylon filament yarns, and fabrics containing non-U.S. yarns if the total weight of such yarns makes up less than 10 percent of the total weight of the fabric.

<sup>8</sup> In an April 2009 *Federal Register* notice, the Department of Commerce announced interim procedures to implement the EIAP that included interpreting “wholly formed” to mean that fabrics purchased from the United States must be dyed, finished, and printed in the United States to receive credits under the program. On July 29, 2010, it announced that it would continue to use this interpretation. 74 Fed. Reg. 15255 (April 3, 2009); 75 Fed. Reg. 45603 (August 3, 2010).

# CHAPTER 2

## Evaluation of the Earned Import Allowance Program

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### Overview

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Despite the incentives offered by the EIAP, production and employment in the woven cotton bottoms sector in the Dominican Republic have continued to decline. In fact, the decline in U.S. imports of woven cotton bottoms from the Dominican Republic accelerated in 2011. Moreover, although U.S. exports of cotton bottom-weight fabrics have risen every year since the program started, the increases have slowed considerably since the first year of the program. In addition, U.S. textile firms indicated that global cotton shortages in 2011 temporarily boosted demand in general for U.S. cotton fabrics that year, suggesting that the rise in exports during 2010–11 was not necessarily attributable to the EIAP.

### Program Participation

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As of March 2012, 12 companies have accounts entitling them to participate in the EIAP; no new firms have established accounts since the publication of the second annual review in July 2011.<sup>1</sup> Only 7 firms are currently using the program. As of April 30, 2012, the Department of Commerce had issued export credits for a total of 15.0 million square meter equivalents (SMEs) of fabric since the program began on December 1, 2008. Based on the previous figure reported in the Commission’s second annual review, this indicates that 1.5 million SME credits were issued in the 14-month period between March 1, 2011, and April 30, 2012.

Since the start of the EIAP, U.S. imports of woven cotton bottoms under the program have totaled about 12.1 million SMEs through March 2012, leaving a balance of approximately 3 million SMEs in credits that could be used to import woven cotton bottoms free of duty under the EIAP using third-country fabrics before all the existing credits are used.<sup>2</sup> U.S. imports under the program declined by over 39 percent in terms of quantity and 37 percent in terms of value during 2010–11 (table 2.1). The level of U.S. imports under the program was also lower in the first quarter of 2012 than during the same period 2011, in terms of both value and quantity. Firms reportedly have used nearly all their retroactive credits (credits earned for eligible fabrics exported before the start of the program).<sup>3</sup> During the course of the first and second annual reviews, Dominican

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<sup>1</sup> Information in this paragraph is based on the following: U.S. government official, telephone interview by USITC staff, April 4, 2012; USDOC, “Free Trade Agreements, CAFTA-DR”; USITC, *Earned Import Allowance Program*, 2011, 2-2.

<sup>2</sup> Calculated based on credits earned totaling 15.0 million SMEs, minus U.S. imports of 12.1 SMEs under the program. USDOC, OTEXA, “Free Trade Agreements, CAFTA-DR,” (accessed April 26, 2012).

<sup>3</sup> U.S. government official, telephone interview by USITC staff, April 4, 2012; Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012, attachment, 2.

apparel manufacturers and U.S. apparel importers using the program predicted that imports under the EIAP would decline as retroactive credits are depleted.<sup>4</sup>

**TABLE 2.1** U.S. imports of qualifying apparel under the EIAP

	1st quarter	2nd quarter	3rd quarter	4th quarter	Total
Year	Quantity (million SMEs)				
2009	( <sup>a</sup> )	1.7	1.4	1.0	4.1
2010	0.9	1.3	1.7	0.8	4.6
2011	0.7	0.9	0.6	0.5	2.8
2012	0.6				0.6
	Value (million \$)				
2009	( <sup>a</sup> )	9.3	10.2	7.4	26.9
2010	6.4	9.5	11.6	5.7	33.1
2011	5.4	7.2	3.9	4.2	20.7
2012	4.6				4.6

Source: Based on U.S. import data supplied by the USDOC, OTEXA.

Note: Data may not sum to total due to rounding.

<sup>a</sup>There were no imports under the program in the first quarter of 2009.

## **Impact on Dominican Apparel Firms and U.S. Apparel Firms Importing from the Dominican Republic**

It appears the EIAP has not provided enough incentives to boost the competitiveness of the Dominican apparel exports in the U.S. market. U.S. imports of woven cotton bottoms that were entered under all import programs from the Dominican Republic continued to decline in 2011 in terms of both absolute levels and market share. The total quantity of U.S. imports of woven cotton bottoms from the Dominican Republic fell by 43 percent during 2010–11 to 7.0 million SMEs (figure 2.1). In the first quarter of 2012, the level of U.S. imports of woven cotton bottoms from the Dominican Republic was slightly lower than that for the first quarter of 2011 (down by 4 percent or 55,537 SMEs), although the Dominican share of total U.S. woven cotton bottoms from the world declined by 0.3 percentage points from 0.8 to about 0.5 percent (figure 2.2). In 2011 and the first quarter of 2012, U.S. imports under the EIAP accounted for 40 percent of the quantity of total U.S. imports of woven cotton bottoms from the Dominican Republic, up from 38 percent in 2010.<sup>5</sup>

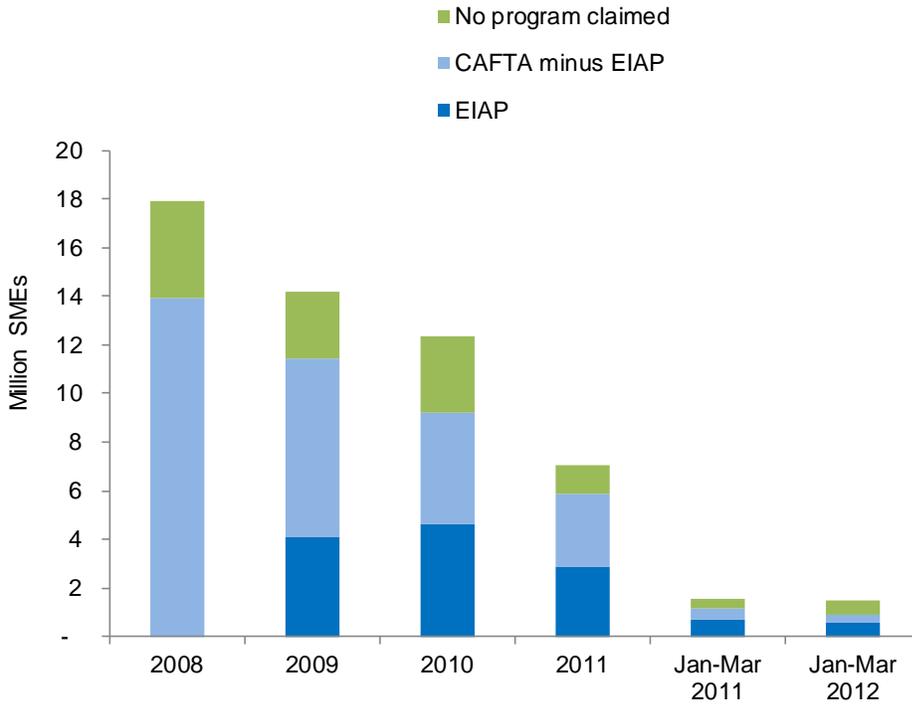
Although U.S. imports of woven cotton bottoms from the world declined overall in 2008–11, the rate of decline was much lower than that for imports from the Dominican Republic.<sup>6</sup> The total quantity of U.S. imports of woven cotton bottoms from the Dominican Republic dropped by 61 percent during 2008–11, compared to a decline of 9 percent in such imports from the world. Further, unlike U.S. imports of woven cotton

<sup>4</sup> See USITC, *Earned Import Allowance Program*, 2010, 3-1 to 3-5; USITC, *Earned Import Allowance Program*, 2011, 2-3, 4-2.

<sup>5</sup> Based on data from the USITC DataWeb/USDOC (accessed April 19, 2011) and data supplied by the USDOC, OTEXA.

<sup>6</sup> Trade data in this paragraph are from USITC DataWeb/USDOC (accessed March 7, 2011).

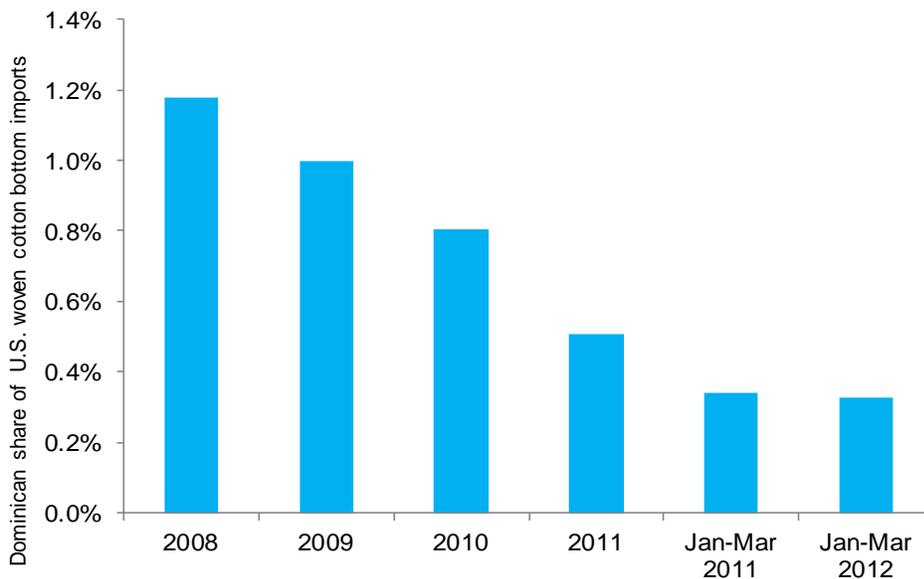
**FIGURE 2.1** Woven cotton bottoms: Total U.S. imports from the Dominican Republic declined steeply during 2010–11.



Sources: Based on data from the USITC DataWeb/USDOC (accessed March 7 and May 10, 2012). Data on imports under the EIAP supplied by the USDOC, OTEXA.

Note: Data represent U.S. imports of the types of apparel eligible under the EIAP, as reported in chapter 1. Imports under the EIAP did not start until the second quarter of 2009.

**FIGURE 2.2** Woven cotton bottoms: The Dominican share of total U.S. imports continued to decline in 2011.



Source: USITC DataWeb/USDOC (accessed March 7 and May 10, 2012).

bottoms from the Dominican Republic, which steadily declined during the period, U.S. imports from the world fluctuated, with 2010 levels slightly increasing (1 percent) over those in 2008. The quantity of U.S. imports of woven cotton bottoms from most countries declined in 2011 from 2010 levels, in large part because of the steep rise in cotton prices in 2011. The price of cotton peaked at \$2.30 per pound in March 2011, well above the calendar-year average of \$0.78 per pound in 2010.<sup>7</sup> Because of the high cotton prices, U.S. apparel importers substituted some of the cotton fabrics used in apparel with fabrics containing less or no cotton (such as polyester-cotton blended fabric).

Reflecting the drop in U.S. imports of woven cotton bottoms in 2010–11, industry and government sources indicated that production of woven cotton bottoms in the Dominican Republic also fell, continuing the downward trend from the prior year. D’Clase Apparel International (D’Clase), a large bottoms producer in the Dominican Republic, stated that in the last year it has reduced its production capacity for woven cotton bottoms from 255,000 units per month to 145,000 units per month, and has laid off 780 employees.<sup>8</sup> According to the Embassy of the Dominican Republic, “for its third consecutive year, the apparel manufacturers are still losing business and further layoffs are expected unless the [EIAP] . . . is optimized to make it cost efficient for users.”<sup>9</sup> The National Free Zones Council of the Dominican Republic (CNZFE) stated that employment in the free zone fell by 49 percent from 2006 to 2011, and that apparel exports dropped by 62 percent during this period.<sup>10</sup>

## **Impact on the U.S. Textile Industry**

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Although U.S. exports of bottom-weight cotton fabrics have risen since the start of the EIAP, it is unclear how much the U.S. textile sector has benefited from the increase. While fabrics that are eligible to earn credits under the EIAP may include woven bottom-weight cotton fabrics wholly formed in the United States from yarns wholly formed in the United States, official U.S. export data do not distinguish between exports of fabrics that would qualify under the EIAP and other types of fabrics. As a result, official U.S. export data also include exports of foreign greige (unfinished) fabrics that have been dyed, finished, and/or printed in the United States.<sup>11</sup> As noted in the first annual report, most of the initial increase in exports under the program likely consisted of exports of foreign greige fabrics that were dyed and finished in the United States.<sup>12</sup> Firms used these fabrics to manufacture woven cotton bottoms in the Dominican Republic that were then exported to the United States using fabric credits earned retroactively from qualifying U.S. fabrics exported to the Dominican Republic before implementation of the program.

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<sup>7</sup> National Cotton Council, Monthly Price Index, “A” Index.

<sup>8</sup> D’Clase Apparel International, written submission to the USITC, April 9, 2012.

<sup>9</sup> Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012, 1.

<sup>10</sup> Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012, attachment, 2.

<sup>11</sup> According to Schedule B, U.S. domestic exports include imported merchandise that has been enhanced in value or changed in the form in which it is imported by further manufacturing or processing in the United States. Since imported greige fabrics are further processed by dyeing and finishing in the United States, they are considered a domestic export. Nevertheless, these fabrics would not qualify as U.S.-produced fabric for the purposes of the EIAP. For further information on the definition of domestic exports, see USDOC, Bureau of the Census, Schedule B, “Correct Way to Complete the SED,” available at <http://www.census.gov/foreign-trade/schedules/b/2010/correctwayforb.pdf>.

<sup>12</sup> USITC, *Earned Import Allowance Program*, 2010, 3-1 and 3-5.

Although the total quantity of U.S. exports of bottom-weight cotton fabrics to the Dominican Republic has risen overall since 2008, the rate of growth has declined significantly over the last two years. During 2008–09, U.S. exports of certain bottom-weight fabrics grew by 78 percent to 6.1 million SMEs, compared with growth rates of 27 percent during 2009–10 and 5 percent during 2010–11 (figure 2.3). Furthermore, the share of total U.S. exports of bottom-weight cotton fabrics that were shipped to the Dominican Republic declined for the first time in 2011 to about 6 percent, down from about 8 percent in 2010 (figure 2.4). For the first quarter of 2012, U.S. exports of certain bottom-weight cotton fabrics to the Dominican Republic totaled 1.3 million SMEs, or less than half the level for the first quarter in 2011. Any benefits to the U.S. textile industry resulting from the EIAP are likely to decline in the future as the apparel sector in the Dominican Republic continues to shrink.

It is also likely that U.S. exports of bottom-weight fabrics replaced some third-country fabrics that had been directly imported into the Dominican Republic, especially in 2011. Demand for U.S.-produced cotton fabrics reportedly increased in the Western Hemisphere in 2011 when, as noted above, the prices of cotton more than doubled. Reportedly, some firms in Asia had difficulty financing their purchases of the higher-priced cotton, resulting in fabric production delays and dropped orders from some mills in Asia.<sup>13</sup> Based on information available to the Commission, it appears likely that more than one-half of the volume of fabrics exports in 2011 consisted of woven bottom-weight cotton fabrics wholly formed in the United States.<sup>14</sup> Since global cotton prices have fallen, U.S. fabric producers have indicated that demand for their fabrics has slowed.<sup>15</sup>

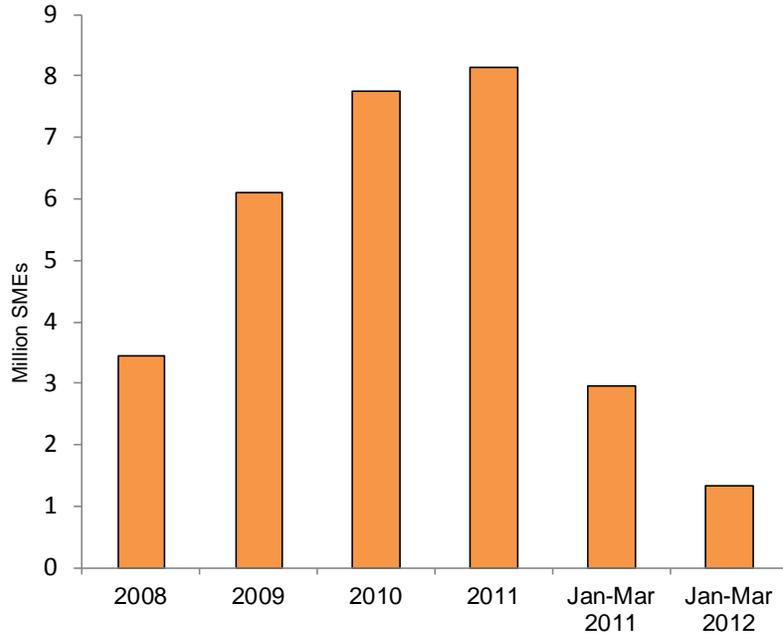
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<sup>13</sup> U.S. textile industry officials, telephone interviews by USITC staff, April 20 and 28, 2011, and April 24 and 26, 2012.

<sup>14</sup> U.S. textile industry officials, telephone interviews by USITC staff, April 15, 2011; April 24 and 26, 2012; and May 2, 2012.

<sup>15</sup> U.S. textile industry officials, telephone interviews by USITC staff, April 24 and 26, 2012.

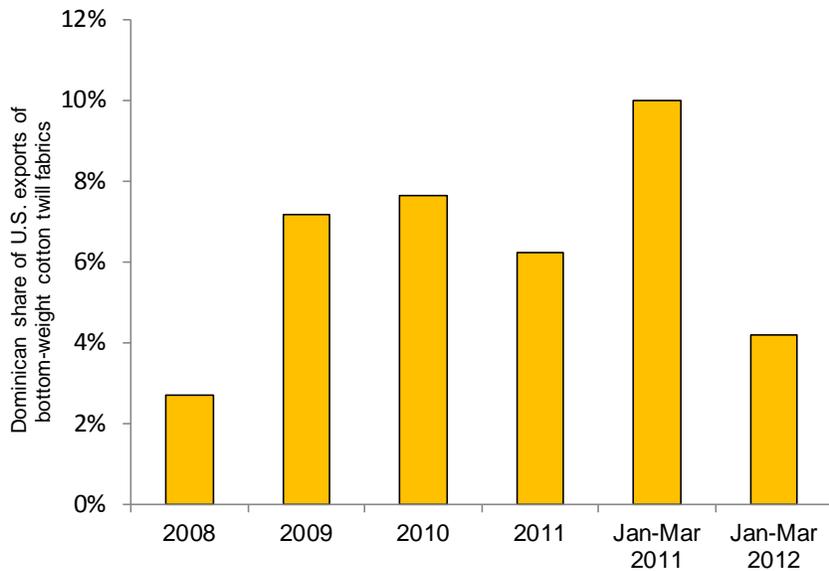
**Figure 2.3.** Bottom-weight cotton fabrics: U.S exports to the Dominican Republic continued to grow in absolute terms in 2011.



Source: USITC DataWeb/USDOC (accessed March 1 and May 10, 2012).

Note: Data represent U.S. exports of all cotton heavy-weight fabrics under the following Schedule B headings: 5208.13.0000; 5208.19.2000; 5208.33.0000; 5208.39.2000; 5208.59.1000; 5209.32.0000; 5209.42.0030; 5210.32.0000; 5210.39.2000; 5211.32.0000; 5211.39.0030; 5211.42.0030; 5211.42.0050; 5212.13.0000; 5212.23.0000; and 5212.24.0000.

**Figure 2.4.** Bottom-weight cotton twill fabrics: The Dominican share of U.S exports declined in 2011.



Source: USITC DataWeb/USDOC (accessed March 1 and May 10, 2012).

# CHAPTER 3

## Recommendations for Improvements in the Earned Import Allowance Program

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### Overview

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During its investigation, the Commission sought comments on the EIAP and recommendations for improvements to the program via a *Federal Register* notice and communication with government and industry representatives in the United States and the Dominican Republic. Recommendations offered during the third annual review of the EIAP were identical to those received by the Commission during the first and second annual reviews. They include lowering the 2-for-1 ratio of U.S. to foreign fabric; including other types of fabrics and apparel items in the EIAP; and changing the requirement that dyeing and finishing of eligible fabrics take place in the United States.

### Recommendations for Improvements

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#### *Lowering Ratio to 1 for 1*

Representatives of the U.S. and Dominican textile and apparel industries and the Government of the Dominican Republic expressed support for a change in the statutory ratio for the EIAP from 2 for 1 to 1 for 1 to help revitalize the apparel industry in the Dominican Republic and boost demand for U.S. fabrics.<sup>1</sup> According to the Dominican government, Dominican apparel producers currently using the EIAP claim that the retroactive foreign fabric credits will be depleted soon, at which point the EIAP will no longer be cost effective.<sup>2</sup> As reported in the second annual review, U.S.-finished fabrics reportedly still cost roughly \$0.50–\$1.00 more per linear yard than foreign-produced fabrics.<sup>3</sup> Lowering the EIAP ratio to 1 for 1 reportedly would offer several benefits, including lowering manufacturing costs and allowing Dominican manufacturers greater flexibility to purchase the types of fabrics demanded by their customers.

#### *Program Expansion*

The government of the Dominican Republic recommended expanding the types of eligible fabrics and apparel covered under the EIAP to improve the program.<sup>4</sup> It stated that if the EIAP expanded coverage to include other types of fabrics and apparel items (including denim apparel), Dominican apparel companies would be able to “regain some

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<sup>1</sup> D’Clase Apparel International, written submission to the USITC, April 9, 2012; Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012; F&T Apparel LLC, written submission to the USITC, March 29, 2012; U.S. textile industry representative, telephone interview by USITC staff, May 2, 2012.

<sup>2</sup> Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012.

<sup>3</sup> USITC, *Earned Import Allowance Program*, 2011, 3-2.

<sup>4</sup> Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012, and attachment to this submission by the National Free Zones Council of the Dominican Republic (CNZFE).

of their previous clients,” and textile and apparel trade flows between the United States and the Dominican Republic would increase.<sup>5</sup>

### ***Interpretation of “Wholly Formed”***<sup>6</sup>

F&T Apparel LLC (F&T), a U.S. producer of boys’ dress wear and school uniforms and a manufacturer of bottoms in the Dominican Republic, recommended that “wholly formed” be defined to permit dyeing and finishing operations to occur in other countries.<sup>7</sup> It reiterated its view that if it were permitted to buy U.S. greige fabric under the program and have it dyed and finished in CAFTA-DR countries, it would, in many instances, change its purchasing decisions. F&T stated that as a result of the current interpretation, it is currently buying almost all of its fabric from China and Pakistan. Another user of the EIAP, D’Clase Apparel International, stated that since the program has remained unchanged despite its earlier recommendations to allow U.S. greige fabric that is finished in the region to qualify for credits, “things have continued to decline” and that D’Clase is at risk of closing permanently.<sup>8</sup>

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<sup>5</sup> Embajada de la República Dominicana (Embassy of the Dominican Republic), written submission to the USITC, April 11, 2012.

<sup>6</sup> In the second annual review, the American Manufacturing Trade Action Committee (AMTAC) cited opposition to changing the current definition of “wholly formed,” including the proposal that “wholly formed” be defined to permit dyeing and finishing operations to occur in other countries. USITC, Earned Import Allowance Program, 2011, 3-3. AMTAC did not submit any comments for this review.

<sup>7</sup> F&T Apparel LLC, written submission to the USITC, March 29, 2012.

<sup>8</sup> D’Clase Apparel International, written submission to the USITC, April 9, 2012.

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**APPENDIX A**  
**Section 2 of Public Law 110-436**

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PUBLIC LAW 110-436—OCT. 16, 2008

## ANDEAN TRADE PREFERENCE EXTENSION

Public Law 110-436  
110th Congress

An Act

Oct. 16, 2008  
[H.R. 7222]

To extend the Andean Trade Preference Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.**

(a) EXTENSION.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

President.

Foreign  
countries.  
Time period.  
Reports.  
Deadline.

**“SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.**

“(a) IN GENERAL.—No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall—

“(1) remain in effect with respect to Colombia or Peru after December 31, 2009;

“(2) remain in effect with respect to Ecuador after June 30, 2009, except that duty-free treatment and other preferential treatment under this title shall remain in effect with respect to Ecuador during the period beginning on July 1, 2009, and ending on December 31, 2009, unless the President reviews the criteria set forth in section 203, and on or before June 30, 2009, reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to subsection (b) that—

“(A) the President has determined that Ecuador does not satisfy the requirements set forth in section 203(c) for being designated as a beneficiary country; and

“(B) in making that determination, the President has taken into account each of the factors set forth in section 203(d); and

“(3) remain in effect with respect to Bolivia after June 30, 2009, except that duty-free treatment and other preferential treatment under this title shall remain in effect with respect to Bolivia during the period beginning on July 1, 2009, and ending on December 31, 2009, only if the President reviews the criteria set forth in section 203, and on or before June 30, 2009, reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to subsection (b) that—

“(A) the President has determined that Bolivia satisfies the requirements set forth in section 203(c) for being designated as a beneficiary country; and

“(B) in making that determination, the President has taken into account each of the factors set forth in section 203(d).

“(b) **REPORTS.**—On or before June 30, 2009, the President shall make determinations pursuant to subsections (a)(2)(A) and (a)(3)(A) and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on—

- “(1) such determinations; and
- “(2) the reasons for such determinations.”.

(b) **TREATMENT OF CERTAIN APPAREL ARTICLES.**—Section 204(b)(3) of such Act (19 U.S.C. 3203(b)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) in subclause (II), by striking “6 succeeding 1-year periods” and inserting “7 succeeding 1-year periods”; and

(ii) in subclause (III)(bb), by striking “and for the succeeding 1-year period” and inserting “and for the succeeding 2-year period”; and

(B) in clause (v)(II), by striking “5 succeeding 1-year periods” and inserting “6 succeeding 1-year periods”; and

(2) in subparagraph (E)(ii)(II), by striking “December 31, 2008” and inserting “December 31, 2009”.

**SEC. 2. EARNED IMPORT ALLOWANCE PROGRAM.**

(a) **IN GENERAL.**—Title IV of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109-53; 119 Stat. 495) is amended by adding at the end the following:

**“SEC. 404. EARNED IMPORT ALLOWANCE PROGRAM.**

19 USC 4112.

“(a) **PREFERENTIAL TREATMENT.**—

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

“(2) **DETERMINATION OF QUANTITY OF SME.**—For purposes of determining the quantity of square meter equivalents under paragraph (1), the conversion factors listed in ‘Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008’, or its successor publications, of the United States Department of Commerce, shall apply.

Applicability.

“(b) **EARNED IMPORT ALLOWANCE PROGRAM.**—

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

“(2) **ELEMENTS.**—The elements referred to in paragraph (1) are the following:

“(A) One credit shall be issued to a producer or an entity controlling production for every two square meter equivalents of qualifying fabric that the producer or entity

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

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

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

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

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

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

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

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

“(G) The Secretary of Commerce may reconcile discrepancies in the information provided under subparagraph (C) or (D) and verify the accuracy of such information.

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

“(c) DEFINITIONS.—For purposes of this section—

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

“(2) the term ‘eligible apparel articles’ means the following articles classified in chapter 62 of the HTS (and meeting the requirements of the rules relating to chapter 62 of the HTS contained in general note 29(n) of the HTS) of cotton (but not of denim): trousers, bib and brace overalls, breeches and shorts, skirts and divided skirts, and pants;

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

Procedures.  
Deadline.

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

“(A) fabric otherwise eligible as qualifying fabric shall not be ineligible as qualifying fabric because the fabric contains nylon filament yarn with respect to which section 213(b)(2)(A)(vii)(IV) of the Caribbean Basin Economic Recovery Act applies;

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

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

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

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

“(iii) section 112(b)(5) of the African Growth and Opportunity Act;

“(iv) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act;

“(v) section 213(b)(2)(A)(v) or 213A(b)(5)(A) of the Caribbean Basin Economic Recovery Act; or

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

“(d) REVIEW AND REPORT.—

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

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

“(e) EFFECTIVE DATE AND APPLICABILITY.—

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

President.  
Certification.

“(2) APPLICABILITY.—The program under this section shall apply with respect to qualifying fabric exported to an eligible country on or after August 1, 2007.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act is amended by inserting after the item relating to section 403 the following:

“Sec. 404. Earned import allowance program.”.

**SEC. 3. AFRICAN GROWTH AND OPPORTUNITY ACT.**

(a) IN GENERAL.—Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended—

(1) in subsection (b)(6)(A), by striking “ethic” in the second sentence and inserting “ethnic”; and

(2) in subsection (c)—

(A) in paragraph (1), by striking “, and subject to paragraph (2),”;

(B) by striking paragraphs (2) and (3);

(C) in paragraph (4)—

(i) by striking “Subsection (b)(3)(C)” and inserting “Subsection (b)(3)(B)”; and

(ii) by redesignating such paragraph (4) as paragraph (2); and

(D) by striking paragraph (5) and inserting the following:

“(3) DEFINITION.—In this subsection, the term ‘lesser developed beneficiary sub-Saharan African country’ means—

“(A) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

“(B) Botswana;

“(C) Namibia; and

“(D) Mauritius.”.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(c) REVIEW AND REPORTS.—

(1) ITC REVIEW AND REPORT.—

(A) REVIEW.—The United States International Trade Commission shall conduct a review to identify yarns, fabrics, and other textile and apparel inputs that through new or increased investment or other measures can be produced competitively in beneficiary sub-Saharan African countries.

(B) REPORT.—Not later than 7 months after the date of the enactment of this Act, the United States International Trade Commission shall submit to the appropriate congressional committees and the Comptroller General a report on the results of the review carried out under subparagraph (A).

(2) GAO REPORT.—Not later than 90 days after the submission of the report under paragraph (1)(B), the Comptroller General shall submit to the appropriate congressional committees a report that, based on the results of the report submitted

19 USC 3721  
note.

under paragraph (1)(B) and other available information, contains recommendations for changes to United States trade preference programs, including the African Growth and Opportunity Act (19 U.S.C. 3701 et seq.) and the amendments made by that Act, to provide incentives to increase investment and other measures necessary to improve the competitiveness of beneficiary sub-Saharan African countries in the production of yarns, fabrics, and other textile and apparel inputs identified in the report submitted under paragraph (1)(B), including changes to requirements relating to rules of origin under such programs.

(3) DEFINITIONS.—In this subsection—

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

(B) the term “beneficiary sub-Saharan African countries” has the meaning given the term in section 506A(c) of the Trade Act of 1974 (19 U.S.C. 2466a(c)).

(d) CLERICAL AMENDMENT.—Section 6002(a)(2)(B) of Public Law 109-432 is amended by striking “(B) by striking” and inserting “(B) in paragraph (3), by striking”. 19 USC 3721.

**SEC. 4. GENERALIZED SYSTEM OF PREFERENCES.**

Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

**SEC. 5. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “November 14, 2017” and inserting “February 14, 2018”; and

(2) in subparagraph (B)(i), by striking “October 7, 2017” and inserting “January 31, 2018”.

(b) REPEAL.—Section 15201 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246) is amended by striking subsections (c) and (d). *Ante*, p. 2262.

**SEC. 6. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 2 percentage points. 26 USC 6655 note.

**SEC. 7. TECHNICAL CORRECTIONS.**

Section 15402 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246) is amended—

(1) in subsections (a) and (b), by striking “Carribbean” each place it appears and inserting “Caribbean”; and *Ante*, p. 2289.

(2) in subsection (d), by striking “231A(b)” and inserting “213A(b)”.

Approved October 16, 2008.

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LEGISLATIVE HISTORY—H.R. 7222:

CONGRESSIONAL RECORD, Vol. 154 (2008):

Sept. 29, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 3, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):

Oct. 16, Presidential remarks.



**APPENDIX B**  
***Federal Register* Notice**

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Superintendent by phone at 402-441-5610 or by facsimile at 608-441-5606. Finally, you may hand-deliver comments to the Ice Age National Scenic Trail headquarters at the address above.

**FOR FURTHER INFORMATION CONTACT:**

Superintendent, Ice Age National Scenic Trail, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711. Telephone 402-441-5610.

**SUPPLEMENTARY INFORMATION:** This GMP/EIS is a joint state and federal effort addressing lands within the Cross Plains Unit of the Ice Age National Scientific Reserve as well as the Interpretive Site for the Ice Age National Scenic Trail; these lands are referred to as the "Ice Age Complex at Cross Plains" for the purpose of this planning effort. This plan will guide the management of the Ice Age Complex at Cross Plains for the next 25 years.

The draft GMP/EIS considers five draft conceptual alternatives—a no-action and four action alternatives, including the NPS-preferred alternative. The draft GMP/EIS assesses impacts of the alternatives on soil resources, water quality, soundscapes, vegetation and wildlife, socioeconomics, and visitor use and experience. The preferred alternative focuses on providing visitors with interpretation of the evolution of the complex from the last glacial retreat to the present and opportunities to enjoy appropriate low-impact outdoor recreation. Ecological resources would largely be managed to reveal the glacial landscape. The most sensitive ecological areas would be carefully protected, and visitor access would be highly controlled in these areas. Visitors would experience a wide variety of indoor and outdoor interpretive programming. Under this alternative, the Ice Age Complex would serve as the headquarters for the Ice Age National Scenic Trail.

Before including your address, telephone number, electronic mail address, or other personal identifying information in your comments, you should be aware that your entire comment (including your personal identifying information) may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: February 17, 2012.

**Michael T. Reynolds,**

*Regional Director, Midwest Region.*

[FR Doc. 2012-5889 Filed 3-9-12; 8:45 am]

**BILLING CODE 4312-KN-P**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**[NPS-PWR-PWRO-0105-9223; 9082-P704-409]**

**Environmental Impact Statement for Proposed General Management Plan, Pinnacles National Monument, San Benito and Monterey Counties, CA**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Termination of Environmental Impact Statement.

**SUMMARY:** The National Park Service is terminating the preparation of an Environmental Impact Statement (EIS) for the General Management Plan, Pinnacles National Monument, California. A Notice of Intent to prepare an EIS for the General Management Plan (GMP) was published in the **Federal Register** on April 6, 2007. Based in part on the minimal nature of public response to the Notice of Intent, the National Park Service has since determined that an Environmental Assessment (EA) rather than an EIS will suffice as the documentation for the environmental analysis for this general management planning effort.

**SUPPLEMENTARY INFORMATION:** This new GMP will update the overall direction for the national monument, setting broad goals for managing the area over the next 15 to 20 years. As noted above, the GMP was originally scoped as an EIS. However, few substantive comments were received during the public scoping process, and no issues having potential for significant or controversial impacts were identified. The current Master Plan was approved in 1975.

In the general management planning process to date, the NPS planning team developed four preliminary alternatives for the management of the monument, none of which would result in substantial changes in the operation and management of the area. The three "action" alternatives define desired future conditions for new lands recently acquired, and address parkwide cultural and natural resource protection, wilderness stewardship, administration and operations, and opportunities for expanding interpretation and visitor opportunities where appropriate. Preliminary analysis of the alternatives has revealed no potential for major (nor

significant) effects on the quality of the human environment, nor any potential for impairment of monument resources and values. Most of the impacts which could result from the alternatives are expected to be negligible to minor in magnitude, with the remainder being of a minor to moderate level.

For these reasons the NPS has determined that the requisite conservation planning and environmental impact analysis necessary for developing the GMP may be completed through preparation of an EA. For further information about this determination or other aspects of the GMP process, please contact: Karen Beppler-Dorn, Superintendent, Pinnacles National Monument, 5000 Highway 146, Paicines, CA 95043 (telephone: (831) 389-4486x222; email: [PINN\\_Superintendent@nps.gov](mailto:PINN_Superintendent@nps.gov)).

**Decision Process:** The draft general management plan/EA is expected to be distributed for public comment in the spring of 2012. The NPS will notify the public about release of the draft general management plan/EA by mail, local and regional media, Web site postings, and other means. All announcements will include information on where and how to obtain a copy of the EA, how to comment on the EA, and the inclusive dates of the public comment period. Following due consideration of public comments and agency consults, at this time a decision is expected to be made in the fall of 2012. The official responsible for the final decision on the GMP is the Regional Director; subsequently the responsible official for implementing the approved GMP is the Superintendent, Pinnacles National Monument.

Dated: February 28, 2012.

**Christine S. Lehnertz,**

*Acting Regional Director, Pacific West Region.*

[FR Doc. 2012-5852 Filed 3-9-12; 8:45 am]

**BILLING CODE 4312-EP-P**

**INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 332-503]**

**Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic, Third Annual Review**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice of opportunity to provide written comments in connection with the Commission's third annual review.

**SUMMARY:** The U.S. International Trade Commission (Commission) has announced its schedule, including deadlines for filing written submissions, in connection with the preparation of its third annual review in investigation No. 332–503, *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic, Third Annual Review*.

**DATES:** April 12, 2012: Deadline for filing written submissions.

July 26, 2012: Transmittal of third report to House Committee on Ways and Means and Senate Committee on Finance.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Project Leader Laura Rodriguez (202–205–3499 or [laura.rodriguez@usitc.gov](mailto:laura.rodriguez@usitc.gov)) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

**BACKGROUND:** Section 404 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (DR–CAFTA Act) (19 U.S.C. 4112) required the Secretary of Commerce to establish an Earned Import Allowance Program (EIAP) and directed the Commission to conduct annual reviews of the program for the purpose of evaluating its effectiveness and making recommendations for

improvements. Section 404 of the DR–CAFTA Act authorizes certain apparel articles wholly assembled in an eligible country to enter the United States free of duty if accompanied by a certificate that shows evidence of the purchase of certain U.S. fabric. The term “eligible country” is defined to mean the Dominican Republic. More specifically, the program allows producers (in the Dominican Republic) that purchase a certain quantity of qualifying U.S. fabric for use in the production of certain bottoms of cotton in the Dominican Republic to receive a credit that can be used to ship a certain quantity of eligible apparel using third country fabrics from the Dominican Republic to the United States free of duty.

Section 404(d) directs the Commission to conduct an annual review of the program for the purpose of evaluating the effectiveness of the program and making recommendations for improvements. The Commission is required to submit its reports containing the results of its reviews to the House Committee on Ways and Means and the Senate Committee on Finance. The Commission submitted its report on its first annual review (USITC Publication 4175) on July 28, 2010, its report on its second annual review (USITC Publication 4246) on July 22, 2011, and it expects to submit its report on its third annual review by July 26, 2011.

The Commission instituted this investigation pursuant to section 332(g) of the Tariff Act of 1930 to facilitate docketing of submissions and also to facilitate public access to Commission records through the Commission's EDIS electronic records system.

**Submissions:** Interested parties are invited to file written submissions concerning this third annual review. All written submissions should be addressed to the Secretary and must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. If confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/documents/](http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/)

[handbook\\_on\\_electronic\\_filing.pdf](#)). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the “confidential” or “non-confidential” version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this review. Consequently, the report that the Commission sends to the committees will not contain any confidential business information. Any confidential business information received by the Commission in this investigation and used in preparing its report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: March 7, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012–5916 Filed 3–9–12; 8:45 am]

**BILLING CODE 7020–02–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–021)]

### Notice of Intent To Grant Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Intent To Grant Exclusive License.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in Patent No. US 6,706,549, Multi-Functional Micro Electromechanical Devices and Method of Bulk Manufacturing Same, LEW 17,170–1; and Patent No. US 6,845,664, MEMS Direct Chip Attach Packaging Methodologies and Apparatuses for Harsh Environments, LEW 17,256–1, to Spectre Corporation, having its

## **APPENDIX C**

### **Written Submissions to the Commission**

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D'Clase Apparel International  
Steven Litton  
Director  
Parque Industrial Gurabo  
Carretera Luperon KM 6 ½  
Gurabo, Dominican Republic  
809-947-7000  
830-644-2470

U.S. International Trade Commission  
500 E. St., S.W.  
Washington, D.C. 20436  
April 9, 2012

Dear Trade Commission,

D'Clase Apparel and I would like to thank you for your continued efforts to make trade policies that benefit our industry. DR-CAFTA has been a very good trade policy for the Dominican Republic and we appreciate your concern and interest in making this legislation better for all. We have benefited by using the changes to support our business which is making bottoms and exporting to the USA. As noted in the briefing, the Dominican Republic is the country in the DR-CAFTA countries who export more bottoms into the USA than the other countries. Thus the ability to use the 2 X 1 legislation has helped us to be able to be more competitive in our products. The ability to use foreign fabric and import to the USA duty free is very important for us today and in the future. As we discussed, having access to different fabrics is our future and the ability to import duty free is essential to keep our business successful and healthy. Since our last communication with the forward looking projection that if legislation was not changed to help generate more credits we would have to reduce our production capacity since we would not be competitive. We had suggested changing from 2 X 1 to 1 X 1 and allowing for all USA greige that was finished in the region to be used to accumulate credits. Since nothing has changed we have shut down some manufacturing facilities and lay off workers. This happened since we ran out of credits for some customers we were no longer competitive in the woven bottom for US customers. We shut down 2 (Two) facilities and laid off 1,600 (One Thousand Six Hundred) workers. Again this year we are in the same situation just with a smaller company and in risk of closing definitely. We would ask you to relook at the legislation to make the changes that would allow us to use more USA greige and keep more production in this hemisphere. Not only does this affect our production but also the sundries and pocketing we purchase from USA companies.

That was our summery from last your 2011. Since that time things have continued to decline. Effective March 1, 2012 the cummulation with Mexico has been discontinued which again limits us with the fabric we can use duty free to the USA and reduces our options for fabric. We have continued to lose clients as we are not as competitive as other countries including some of the DR-CAFTA countries. You have included provisions that only hurt the Dominican Republic like the option to have to use USA pocketing which is more expensive. Other DR-CAFTA countries do not have this burden and can use 1 X 1 duty preference to be duty free to the USA. So because of this in the last year we have reduced our production capacity from 255,000 units per month to 145,000 units per month. This in turn means we have laid off 780 employees. This is all due to not being competitive. This also means we use less

USA cotton and trim. So with things going as we have anticipated without any action from the USA it is very difficult to understand how long we will continue to be able to keep our doors open.

Again we appreciate your interest and help to correct this situation before it is too late.

Steven Litton



APPAREL LLC

**Mark Fishman**  
President

March 29, 2012

James Holbein  
Acting Secretary of the Commission  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

332-503

Dear Secretary Holbein,

My name is Mark Fishman and I am co-President of F&T Apparel LLC. We are based in Plymouth Meeting, Pennsylvania, just outside of Philadelphia. Our business began in 1914 and we are a privately owned corporation. The vast majority of our business is in boy's dresswear and in school uniforms. We have company owned factories in the Dominican Republic, as well as Haiti, and use outside contractors all over the CAFTA region. I am writing to you today to give you my opinion on the effectiveness of the Earned Import Allowance Program for certain apparel from the Dominican Republic. For your information, we have approximately 2,000 employees in the Dominican Republic today.

The way that the 2 for 1 allowance program is currently interpreted is of very little importance to us and, consequently, really hasn't had any impact on our business. The reason for this is that even with the 2 for 1 credit, the cost of buying US "wholly formed" piece goods is still more costly than buying Asian fabric, even with the 2 for 1 provision. The only time that it makes sense is when we can make an opportune buy on raw materials in the United States which does happen from time to time. Suffice to say that well over 95% of what we purchase is coming from outside of the United States.

There are a number of suggestions that I have to improve the utilization of the Earned Import Allowance Program for the Dominican Republic. A couple of years ago, there was a lively discussion about the definition of "wholly formed." I believe the term was mistakenly defined to include fabric that was dyed and finished in the United States. If this interpretation was changed so that only greige goods had to come from the United States and dying and finishing could happen in a CAFTA country, in many instances, it would change our decisions. In the past, we have purchased a fair amount of raw material that is US greige finished and dyed in Nicaragua. This comes in as CAFTA duty

4000 CHEMICAL ROAD, SUITE 500, PLYMOUTH MEETING, PA 19462-1708

T: (610) 828 8400 F: (610) 828 4426 E: MFISHMAN@FISHMANTOBIN.COM

James Holbein

Page 2

free, but obviously, would have much greater impact for the Dominican Republic if it was part of the 2 for 1 program. As an end result of the interpretation, instead of buying that fabric, we are currently buying fabric from China and Pakistan. Therefore, our Dominican Republic factories are full, but the US greige goods mills are not getting our orders.

Of course, the other easy fix for this is to change the 2 for 1 to something less than that such as 1 for 1, in which case for every yard of qualifying fabric, you could import duty free a yard of non-qualifying fabric. If this change was made along with the alternative definition of wholly formed, I think you would see a surge in the use of US greige goods, as well as the resurgence in the apparel industry in the Dominican Republic.

If nothing is done, more than likely we will continue to utilize Asian raw materials to cut and sew in our Dominican Republic facility, and continue to move garment production out of the region.

I can honestly tell you that without doing something to help the industry in the Dominican Republic, the severe decline that has occurred will continue. If, on the other hand, the goal is to increase production there, I urge you to look at the suggestions that I outlined above. Feel free to call me if any of the above is not clear or if you need any further clarification or I can be helpful in any manner.

Regards,



Mark Fishman

MF/sf

EMBAJADA DE LA REPUBLICA DOMINICANA  
1715 22ND STREET, N.W.  
WASHINGTON, D.C. 20008

April 11, 2012  
Washington, D.C.

Mr. James R. Holbein  
Secretary of the Commission  
U.S. Department of Commerce  
International Trade Commission  
500 E Street SW  
Washington, D.C. 20436

**Re: Comments from the Government of the Dominican Republic, with regards to the third annual review on the effectiveness of the Earned Import Allowance Program for Certain Apparel from the Dominican Republic**

**Annex: Communication from the National Free Zones Council of the Dominican Republic dated April 11<sup>th</sup>, 2012.**

Dear Mr. Holbein:

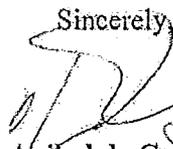
Pursuant to your office's notice to provide written observations concerning the International Trade Commission (ITC) third annual review on the effectiveness of the Earned Import Allowance Program (EIAP), published March 7, 2012 in the Federal Register (77 FR 14568), the Embassy of the Dominican Republic hereby submits comments recommending necessary improvements to the EIAP in order to prevent further job losses within the U.S.-Dominican textile and apparel trade.

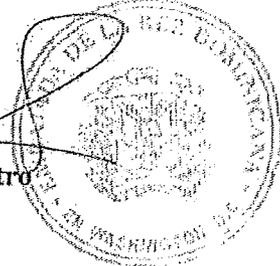
After three years implementing this program, the statistics collected by the U.S. Office of Textiles and Apparels (OTEXA) unquestionably indicates that the EIAP is not providing adequate incentives to assist the Dominican apparel sector, nor boosting purchases of U.S. fabrics for production of woven cotton bottoms in the Dominican Republic. In its First Review in July 2010, the ITC identified that the EIAP "yields [its] initial beneficial effects". The subsequent Review concluded that the Program "provides too few incentives" for U.S. and Dominican textile and apparel industries. According to statistics provided by the National Free Zones Council of the Dominican Republic (CNZFE), for its third consecutive year, the apparel manufacturers are still losing business and further layoffs are expected unless the program is optimized to make it cost efficient for users.

The Government of the Dominican Republic reiterates its desire of expanding the program to other types of fabrics and apparel items, and to lower its ratio to a "1 for 1". In conversation with several Dominican companies currently using the EIAP, they indicated that in the near-term its retroactive foreign fabric credits will be depleted, and the program will not be cost-effective any longer. According to these companies, lowering the ratio of the EIAP will result in an average manufacturing cost that will provide the necessary incentives to buy US-produced fabrics for their clients. Additionally, if the program is expanded (i.e. denims) these companies would be able to regain some of their previous clients.

For the Government of the Dominican Republic this is a matter of utmost importance. Free Zones continue to be the largest generator of employment in the Dominican economy, of which the apparel industry is its mayor contributor (approximately 35%). Improving the EIAP with the above mentioned recommendations will allow more U.S. fabrics to be purchased by a CAFTA trading partner, increasing competitiveness and restoring jobs in the hemisphere.

The Embassy of the Dominican Republic avails itself of this opportunity to renew to the U.S. Department of Commerce the assurance of its highest consideration.

Sincerely,  
  
Anibal de Castro  
Ambassador

The seal is circular with a double border. The outer border contains the text "REPUBLICA DOMINICANA" at the top and "ESTADO LIBRE ASOCIADO" at the bottom. The inner circle features a central emblem, likely the coat of arms of the Dominican Republic, surrounded by a decorative wreath.



002320

11 ABR 2012

*"Año del Fortalecimiento del Estado Social y Democrático de Derecho"*

Mr. Anibal de Castro  
Ambassador  
Embassy of the Dominican Republic  
1715 22<sup>nd</sup> St, NW  
Washington, D.C. 20008

Re: **International Trade Commission's third annual review of the EIAP, published March 7, 2012 in the Federal Register (77 FR 14568).**

Dear Ambassador de Castro,

Pursuant to section 401(d) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4112(d)), and section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the National Free Zones Council of the Dominican Republic wishes to submit comments in connection with the International Trade Commission's third annual review of the EIAP, published March 7, 2012 in the Federal Register (77 FR 14568).

As pointed out in previous communications sent to the Commission, the Government of the Dominican Republic firmly believes that the effectiveness of the EIAP should be evaluated as a measure designed to maintain the competitiveness of the apparel manufacturers in the Dominican Republic, while at the same time preserving and promoting the use of U.S. fabrics for such garments. It is important to recall that this program was intended to fulfill a commitment to the Dominican Republic, derived from the bilateral negotiations to amend the DR-CAFTA, in which our government agreed to provide a benefit in the form of a change in the rules of origin for pocketing fabrics, in exchange for equivalent measures to maintain the competitiveness of trouser and suit manufacturers in the Dominican Republic.

In this context, and taking into account the purposes of the program, we consider relevant to elucidate the importance and recent performance of the apparel industry in the Dominican Republic and its links to the United States' textile industry. Free Zones, where most apparel manufacturers are located, continue to be one of the most dynamic economic sectors in the Dominican Republic contributing nearly 4% to the country's GDP. Furthermore, within free zones, which is one of the greatest generators of employment in the country, (mainly in economic depressed areas) apparel manufacturers account for 35% of total employment.

Leopoldo Navarro #61, Edif. San Rafael, 5to Piso, Santo Domingo, República Dominicana, Apdo. Postal 21430  
Tel.: 809-686-8077 • Fax: 809-686-8079 • www.cnzfe.gob.do • E-mail: l.fernandez@cnzfe.gob.do • RNC: 4-01-50140-6



However, despite DR-CAFTA's textile provisions and the EIAP, the Dominican apparel industry has remained in a downtrend, notably affecting employment and exports. In 2011, the National Free Zones Council of the Dominican Republic registered a decline in employment of 49% since 2006 in the apparel industry. Moreover, the volume of total apparel exports to the United States decreased 62%. In addition, the value of Dominican imports of fabrics manufactured in the United States has decreased close to 55%. When considering only cotton broadwoven fabrics, the decrease has been 85% according to data from the U.S. Office for Textile and Apparel.

We take this opportunity to highlight the factors that are undermining the EIAP, which are the fundamental reasons for why we still believe that an upgrade in the EIAP is needed to restore competitiveness to the industry. Since the initiation of the program, we have been constantly receiving reports from our apparel manufacturers regarding the unavailability of several types of fabrics in the U.S. due to price competitiveness and the relocation of facilities and strategic operations to Asia. For this reason, most of the fabrics demanded by the market are now being manufactured outside the United States. Consequently, these fabrics must be purchased from producers located in Asia, which makes it almost impossible for producers to collect enough credits in their EIAP account.

We firmly believe that in order to make the EIAP cost-efficient and maintain its intention of preserving competitiveness of trouser and suit manufacturers in the Dominican Republic, the current 2:1 ratio of the program should be changed to a 1:1 ratio. This suggestion takes into consideration the current state of the U.S. textile industry, as well as the fact that new sources for the fabrics demanded by the market are not allowing, as import-exports statistics confirmed, Dominican apparel manufacturers to take full advantage of the program. Granting the proposed 1:1 ratio, and at the same time, expanding the coverage of "qualifying fabrics" (such as denim and other man-made fiber fabrics) under the EIAP would ensure and encourage growth in textile and apparel trade flows between the U.S. and the Dominican Republic.

Sincerely,

  
Luisa Fernandez Duran  
Ambassador/Executive Director



LFD/DL/ede

Leopoldo Navarro #61, Edif. San Rafael, 5to Piso, Santo Domingo, República Dominicana, Apdo. Postal 21430  
Tel.: 809-686-8077 • Fax: 809-686-8079 • www.cnzfe.gob.do • E-mail: l.fernandez@cnzfe.gob.do • RNC: 4-01-50140-6