

United States International Trade Commission

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

Investigation No. 332-503

USITC Publication 4417

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# U.S. International Trade Commission

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

Washington, DC 20436  
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## **Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic**

### **Fourth Annual Review**

Investigation No. 332-503



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

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# CONTENTS

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	<i>Page</i>
<b>Executive Summary</b> .....	iii
<b>Chapter 1 Introduction</b> .....	1-1
Program overview and product coverage.....	1-1
Scope and approach.....	1-2
<b>Chapter 2 Evaluation of the Earned Import Allowance Program</b> .....	2-1
Overview.....	2-1
Program activity and impact on Dominican apparel exporters, U.S. apparel importers, and U.S. textile producers.....	2-1
<b>Chapter 3 Recommendations for Improvements in the Earned Import Allowance Program</b> .....	3-1
Overview.....	3-1
Recommendations for improvements.....	3-1
Lowering ratio to 1 for 1.....	3-1
Program expansion.....	3-2
Interpretation of “wholly formed”.....	3-2
<b>Bibliography</b> .....	Biblio-1
<b>Appendixes</b> .....	
A. Section 2 of Public Law 110-436.....	A-1
B. Federal Register notice.....	B-1
C. Written submissions to the Commission.....	C-1
<b>Figures</b> .....	
2.1. U.S. imports of qualifying apparel under the EIAP by quantity, 2009–1st quarter 2013 ...	2-2
2.2. U.S. imports of qualifying apparel under the EIAP by value, 2009–1st quarter 2013.....	2-2
2.3. U.S. exports of bottom-weight cotton fabrics to the Dominican Republic, by quantity, 2009–1st quarter 2013.....	2-4
2.4. U.S. exports of bottom-weight cotton fabrics to the Dominican Republic, by value, 2009–1st quarter 2013.....	2-4



# Executive Summary

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This report contains the results of the Commission’s fourth annual review of the Earned Import Allowance Program (EIAP) for the Dominican Republic. In these reports the Commission is required to evaluate the effectiveness of the EIAP and make recommendations for improvements. Four 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 in the previous year, 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 declined significantly in 2012 and in the first quarter of 2013, by value and by quantity. Also, although U.S. exports to the Dominican Republic of cotton fabrics of a weight suitable for making bottoms (“bottom-weight cotton fabrics”) had grown steadily during 2008–11, total U.S. exports of bottom-weight cotton fabrics to the Dominican Republic fell sharply in 2012, for the first time since the program’s inception in 2009. Moreover, it is unclear how much U.S. textile producers have directly benefited from the program because, as noted in the earlier reviews, the relevant official U.S. export data do not distinguish between exports of fabrics that would qualify under the EIAP and other types of fabrics not covered in the program.

## Overview of the EIAP

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The procedures and program requirements for the EIAP have not changed since the Commission’s third annual review of the program in 2012. The EIAP provides an uncapped duty-free benefit for U.S. imports of certain woven cotton bottoms from the Dominican Republic. The bottoms must have been assembled in the Dominican Republic from third-country 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 toward 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 incentives sufficient to curtail the ongoing declines in the Dominican Republic’s production and exports of woven cotton bottoms. Dominican industry sources reported continued declines in production of these products, along with continued job losses. U.S. imports under the EIAP fell by just over half by quantity and 45 percent by value during 2011–12. Twelve companies are registered to use the EIAP; seven of these firms are currently using the program, a number unchanged since the third annual review.

The extent to which the program has directly benefited U.S. fabric producers and their exports to the Dominican Republic is uncertain. Although one U.S. textile mill reported

increased exports of bottom-weight cotton fabrics to the Dominican Republic by value and quantity in 2012 over the previous year, the total level of U.S. exports of bottom-weight cotton fabrics to the Dominican Republic fell for the first time since the program's inception, by almost half by quantity and 30 percent by value in 2012. Moreover, these data may underrepresent the declines in 2012, because the relevant U.S. export data include not only fabrics wholly formed in the United States, but also third-country greige (unfinished) fabrics that are dyed and finished in the United States. The third-country fabrics that are dyed and finished in the United States, which do not qualify under the EIAP, can be 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 three years of the program were earned retroactively from qualifying U.S. fabrics exported to the Dominican Republic before implementation of the program.

## **Recommendations Concerning the EIAP**

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During the fourth 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 earlier reviews: (1) lowering the 2-for-1 ratio of U.S. to third-country 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 fourth 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. (In recent years, Dominican apparel producers had been adversely affected by increased competition from Asia<sup>1</sup> and the downturn in the U.S. economy that began in late 2007.<sup>2</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>3</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>4</sup>

The Commission’s first three reviews were delivered to the House Committee on Ways and Means and the Senate Committee on Finance in July 2010, July 2011, and July 2012, respectively.<sup>5</sup> Like the previous 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 third annual review of the program. The EIAP authorizes certain apparel articles wholly assembled in the Dominican Republic from third-country fabric to enter the United States free of duty if accompanied by a certificate confirming the purchase of

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<sup>1</sup> The elimination of quotas under the Agreement on Textiles and Clothing in 2005 intensified competition from Asian suppliers.

<sup>2</sup> USITC hearing transcript, November 18, 2009, 6–8 (testimony of Scott Quesenberry, former Special Textile Negotiator, Office of the United States Trade Representative), USITC, *Earned Import Allowance Program*, 2010, 2-3.

<sup>3</sup> Global Trade Atlas database (accessed May 8, 2013); Swift Gale, written submission to the USITC, November 18, 2009; USITC, hearing transcript, November 19, 2009, 23.

<sup>4</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.” (See Appendix A for a copy of the statute.) 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>5</sup> All of these annual reviews are classed as “investigation no. 332-503” and can be downloaded from the USITC website. Their full titles and URLs are listed in the bibliography.

certain U.S. fabric.<sup>6</sup> Specifically, except for cotton denim bottoms,<sup>7</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 (hereinafter referred to as woven cotton bottoms) assembled in the Dominican Republic from third-country fabric, if 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 into the United States apparel using non-qualifying fabric.

The qualifying fabrics that may be purchased to receive credits under the program comprise 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 cotton fabrics”) classified in chapter 52 of the U.S. Harmonized Tariff Schedule (HTS), which includes denim.<sup>8</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>9</sup>

## Scope and Approach

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This report assesses the effectiveness of the EIAP through March 2013 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 four written submissions, which are included in appendix C and are incorporated into the Commission’s report as appropriate.

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<sup>6</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 third-country 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: Third Annual Review*, 2012, 1-2.

<sup>7</sup> Cotton denim bottoms are excluded from preferential treatment under the EIAP.

<sup>8</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 third-country 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>9</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. Furthermore, the decline in recent years in total U.S. imports of woven cotton bottoms from the Dominican Republic accelerated in 2012. In addition, although U.S. exports of bottom-weight cotton fabrics to the Dominican Republic had risen every year since the program started, in 2012 U.S. exports of these fabrics to the Dominican Republic fell for the first time.

### Program Activity and Impact on Dominican Apparel Exporters, U.S. Apparel Importers, and U.S. Textile Producers

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As of March 2013, 12 companies had accounts entitling them to participate in the EIAP, and 7 of these firms were currently using the program; both numbers are unchanged since July 2012.<sup>1</sup> As of April 30, 2013, the Department of Commerce had issued export credits totaling 17.5 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 third annual review, this indicates that 2.5 million SME credits were issued between March 1, 2012, and April 30, 2013 (the latest available data).

Since the start of the EIAP on December 1, 2008, through March 2013, U.S. imports of woven cotton bottoms under the program have totaled about 12.9 million SMEs. This leaves a balance of about 4.6 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>

During the course of the first three annual reviews, Dominican apparel manufacturers and U.S. apparel importers using the program predicted that imports under the EIAP would decline as retroactive credits were depleted.<sup>3</sup> To date, the leading users of the EIAP have

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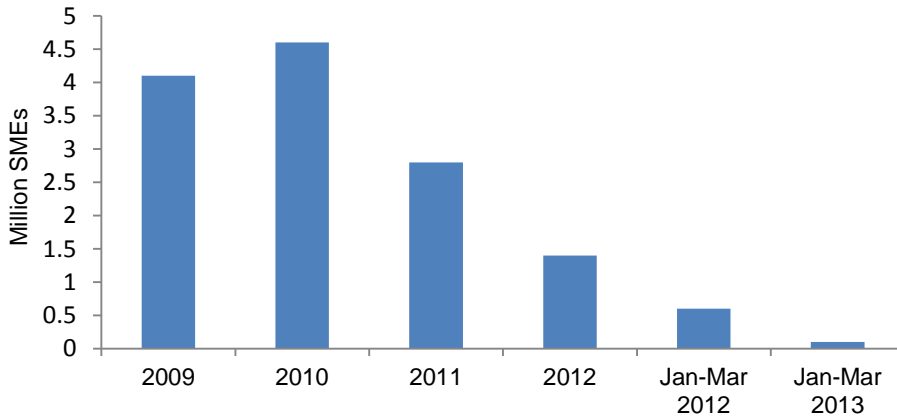
<sup>1</sup> U.S. government official, email message to USITC staff, February 22, 2013; USDOC, "Free Trade Agreements, CAFTA-DR" (accessed May 6, 2013); USITC, *Earned Import Allowance Program*, 2012, 2-1.

<sup>2</sup> Calculated based on credits earned totaling 17.5 million SMEs, minus U.S. imports of 12.9 SMEs under the program. USDOC, OTEXA, "Free Trade Agreements, CAFTA-DR" (accessed April 29 and 30, 2013).

<sup>3</sup> See USITC, *Earned Import Allowance Program*, 2010, 3-1 to 3-5; USITC, *Earned Import Allowance Program*, 2011, 2-3, 4-2; and USITC, *Earned Import Allowance Program*, 2012, 2-2. The use of retroactive credits enabled firms to benefit from past purchases (dating back to August 1, 2007). Some firms have indicated that unless changes are made to the program to make it more cost effective to produce apparel in the Dominican Republic, they would not continue producing there to earn new credits under the program.

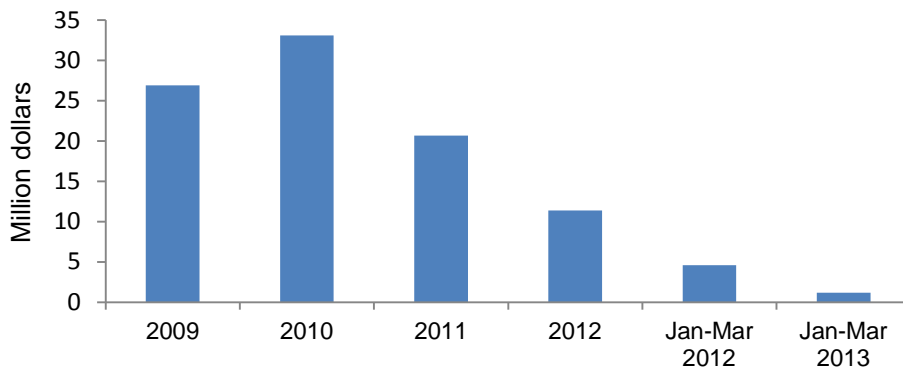
used most of their retroactive credits, and during 2011–12, U.S. imports under the program declined by just over 50 percent by quantity and 45 percent by value (figures 2.1 and 2.2). The sharp decline continued during the first quarter of 2013, compared with the first quarter of 2012, as U.S. imports of woven cotton bottoms entering under the program by quantity and value fell by 83 percent and 74 percent, respectively.

**FIGURE 2.1** U.S. imports of qualifying apparel under the EIAP, in terms of quantity, 2009–1st quarter of 2013



Source: Based on U.S. import data supplied by the U.S. Department of Commerce (USDOC), Office of Textiles and Apparel (OTEXA) (accessed May 6 and 7, 2013).

**FIGURE 2.2** U.S. imports of qualifying apparel under the EIAP, in terms of value, 2009–1st quarter of 2013



Source: Based on US. import data supplied by the U.S. Department of Commerce (USDOC), Office of Textiles and Apparel (OTEXA) (accessed May 6 and 7, 2013).

Program users also attributed the decrease in U.S. imports under the EIAP to other factors. One user of the program stated that it had scaled back its activity in 2012 and discontinued using the EIAP in early 2013.<sup>4</sup> This company found the program to be no longer cost effective, especially because of the requirement that qualifying fabrics be dyed and finished in the United States. Another user of the EIAP program also stated that the dyeing and finishing requirement reduced the cost effectiveness of the program for its operations, resulting in a decline in its use.<sup>5</sup> In 2012, only 3 percent of this company's production of cotton bottoms in the Dominican Republic took advantage of the program, down from almost 11 percent in each of the previous two years; furthermore, the company has no plans to use the EIAP in 2013.<sup>6</sup> Another firm stated that it uses the EIAP on a "case-by-case basis," principally for rush orders that require domestic fabric.<sup>7</sup>

As was stated in the previous three reviews, it appears the EIAP has not provided incentives sufficient to boost the competitiveness of Dominican apparel exports in the U.S. market. High energy prices and the lack of access to capital reportedly hamper the competitiveness of apparel producers in the Dominican Republic.<sup>8</sup> Furthermore, although some Dominican apparel producers consider the EIAP "effective," they indicated that they are unable to exploit it to its full potential or offset "tough" competition from Asian suppliers because of the limited availability and higher cost of fabrics produced in the United States.<sup>9</sup>

The downward trend in apparel production (including the production of cotton bottoms) and apparel-related employment in the Dominican Republic continued in 2012. A representative of D'Clase Apparel International (D'Clase), a large producer of cotton bottoms in the Dominican Republic and user of the EIAP, stated that it reduced its production capacity from 145,000 units per month in 2011 to 75,000 units in 2012 and substantially reduced its staff during the same period.<sup>10</sup> The Embassy of the Dominican Republic reported, "According to statistics provided by the National Free Zones Council of the Dominican Republic (CNZFE), for its fourth consecutive year, the apparel manufacturers are still losing business and further layoffs are expected unless the program is optimized to make it efficient for users."<sup>11</sup>

In 2012, the overall benefits of the EIAP for U.S. producers and exporters of bottom-weight cotton fabrics also appeared limited. Although one U.S. textile firm attributed its increase in exports of cotton fabrics to the Dominican Republic in 2012 and during the first quarter of 2013 to the program,<sup>12</sup> total U.S. exports of bottom-weight cotton fabrics fell for the first time since the EIAP's inception, falling by almost half by quantity and by 30 percent by value in 2012. Both quantity and value continued to decrease during the

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<sup>4</sup> U.S. apparel producer, telephone interview by USITC staff, April 17, 2013, and email message to USITC staff, April 18, 2013.

<sup>5</sup> U.S. apparel producer, email message to USITC staff, April 12, 2013.

<sup>6</sup> U.S. apparel producer, email message to USITC staff, April 4, 2013.

<sup>7</sup> U.S. apparel producer, telephone interview by USITC staff, April 18, 2013.

<sup>8</sup> Representative of the Dominican Free Zones Association, Inc. (ADOZONA), email message to USITC staff, April 8, 2013.

<sup>9</sup> Representative of the National Free Zones Council of the Dominican Republic, telephone interview by USITC staff, April 8, 2013; Representative of the Dominican Free Zones Association, Inc. (ADOZONA), email message to USITC staff, April 8, 2013.

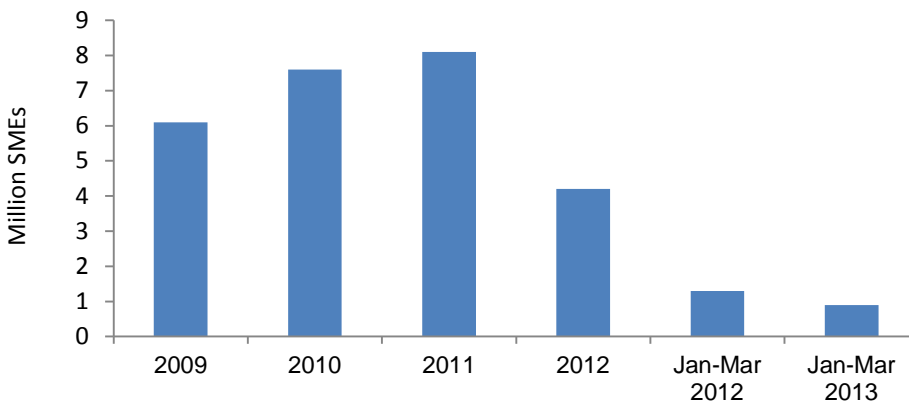
<sup>10</sup> Representative of D'Clase Apparel International, telephone interview by USITC staff, April 17, 2013.

<sup>11</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013, 1.

<sup>12</sup> U.S. textile producer of bottom-weight cotton fabrics, telephone interview by USITC staff, April 1, 2013. This textile producer also noted that cotton prices stabilized in the United States in 2012 and remained lower than those of suppliers overseas, which helped the company's competitive position even more.

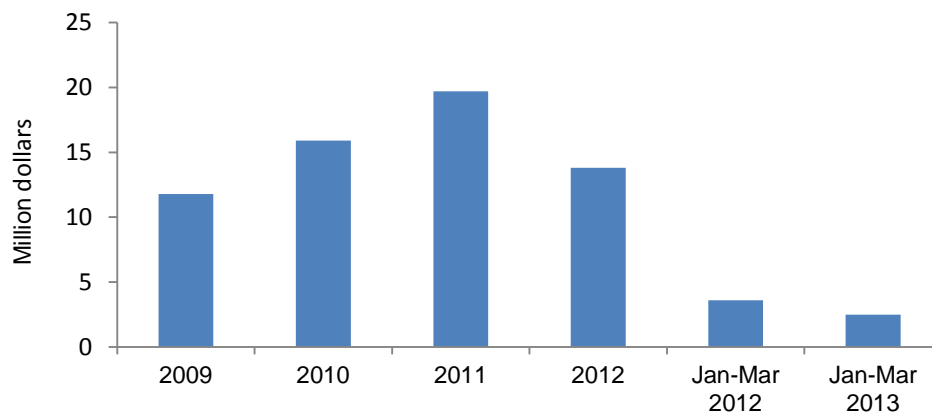
first quarter of 2013 (figures 2.3 and 2.4). Moreover, these numbers do not tell the entire story. As indicated in the previous three reviews, although fabrics that are eligible to earn credits under the EIAP may include woven bottom-weight cotton fabrics wholly formed in the United States from yarns 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 third-country greige (unfinished) fabrics that have been dyed, finished, and/or printed in the United States.<sup>13</sup>

**FIGURE 2.3** U.S. exports of bottom-weight cotton fabrics to the Dominican Republic, in term of quantity, 2009–1st quarter of 2013



Source: USITC Dataweb/USDOC (accessed May 6 and 7, 2013).

**FIGURE 2.4** U.S. exports of bottom-weight cotton fabrics to the Dominican Republic, in terms of value, 2009–1st quarter of 2013



Source: USITC Dataweb/USDOC (accessed May 6 and 7, 2013).

<sup>13</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,” <http://www.census.gov/foreign-trade/schedules/b/2011/correctwayforb.pdf> (accessed April 29, 2013).

# 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 fourth annual review of the EIAP were largely the same as those received by the Commission during the previous three annual reviews. They include lowering the 2-for-1 ratio of U.S. to foreign fabric; allowing other types of fabrics and apparel items to be included 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 continued to express support for a change in the statutory ratio for the EIAP from 2 for 1 to 1 for 1 to enhance the cost effectiveness of using the program, 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 using the EIAP claim that soon the retroactive foreign fabric credits will be depleted. At that time, Dominican apparel manufacturers will no longer have a large enough incentive to maintain existing volumes of their purchases of U.S. fabrics.<sup>2</sup> If the EIAP ratio were lowered to 1 for 1, however, the resulting average manufacturing cost would provide the necessary incentives for Dominican apparel producers to buy U.S.-produced fabrics.<sup>3</sup>

School Apparel, Inc., a U.S. uniform company which sources from the Dominican Republic, added that while they currently have no plans to increase production in the region, lowering the ratio from 2 for 1 to 1 for 1 would allow them to maintain their current production levels in the Dominican Republic and finalize production decisions that depend upon fabric choice.<sup>4</sup> Also, the American Apparel and Footwear Association

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<sup>1</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013; F&T Apparel LLC, written submission to the USITC, April 12, 2013; School Apparel, Inc., written submission to the USITC, March 28, 2013; AAFA, written submission to the USITC, April 12, 2013; U.S. apparel producer, telephone interviews by USITC staff, April 17 and 18, 2013.

<sup>2</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013.

<sup>3</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013.

<sup>4</sup> School Apparel Inc., written submission to the USITC, March 28, 2013.

(AAFA), which represents U.S. apparel and footwear industries and their suppliers, stated that unless the EIAP is “rectified,” which would include modifying the 2 for 1 ratio to 1 for 1, U.S. and Dominican apparel companies will not use the program to be competitive, nor will U.S. textile companies see fabric exports occur as a result.<sup>5</sup>

### ***Program Expansion***

Another recommendation by the Embassy of the Dominican Republic and the National Free Zones Council of the Dominican Republic (CNZFE) is to expand the coverage of “qualifying fabrics” (by adding denim and certain manmade-fiber fabrics) under the EIAP. According to CNZFE, expanding coverage would encourage growth in textile and apparel trade flows between the U.S. and the Dominican Republic.<sup>6</sup> CNZFE said that it has been “constantly receiving reports from our apparel manufacturers, stressing the unavailability of several types of fabrics in the U.S., due to price competitiveness and to the relocation of facilities and strategic operations to Asia.”<sup>7</sup> A representative of CNZFE also said that U.S. textile mills require larger orders but have more limited offerings than Asian suppliers.<sup>8</sup> However, the representative said that if the EIAP were expanded to include manmade-fiber fabrics, Dominican apparel producers would import more fabrics from U.S. textile mills because demand for apparel made from manmade-fiber fabrics is growing.<sup>9</sup>

Sharing a similar view, a representative of the Dominican Association of Free Zones, Inc. (ADOZONA) stated that U.S. textile producers offer some but not enough of the fabrics Dominican apparel producers require and that most of the innovative and new products they seek must be sourced from Asia.<sup>10</sup> AAFA also supported expanding the coverage of the EIAP to enable other kinds of fabrics and products to gain benefits in order to create opportunities for apparel production and U.S. textile exports.<sup>11</sup>

### ***Interpretation of “Wholly Formed”***

F&T Apparel LLC (F&T), a U.S. manufacturer of boys’ apparel (dress wear and school uniforms) and a manufacturer of bottoms in the Dominican Republic, restated the recommendations it made in previous reviews. It recommended that the current dyeing and finishing restriction be modified.<sup>12</sup> In its 2011 submission the firm said 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

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<sup>5</sup> AAFA, written submission to the USITC, April 12, 2013.

<sup>6</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013, attachment to this submission by CNZFE.

<sup>7</sup> Embassy of the Dominican Republic, written submission to the USITC, April 10, 2013, attachment to this submission by CNZFE.

<sup>8</sup> Representative of CNZFE, telephone interview by USITC staff, April 8, 2013.

<sup>9</sup> Industry sources report that in the last seven years, U.S. demand has been making a dramatic shift away from more expensive cotton apparel to manmade-fiber apparel. Emergingtextiles.com, “U.S. Apparel Imports in 2005–2012 per Category: Statistical Report,” April 25, 2013; representative of CNZFE, telephone interview by USITC staff, April 8, 2013.

<sup>10</sup> Representative of ADOZONA, email message to USITC staff, April 8, 2013.

<sup>11</sup> AAFA, written submission to the USITC, April 12, 2013.

<sup>12</sup> F&T Apparel LLC, written submission to the USITC, April 12, 2013.



fabric from China and Pakistan. A representative of another Dominican apparel user of the EIAP stated that since the program has remained unchanged despite its earlier recommendations to allow U.S. greige fabric that is finished in the CAFTA-DR region to qualify for credits, the number of its apparel workers and facilities have continued to decline.<sup>13</sup> AAFA noted in its written submission that the Commerce Department's decision to interpret the term "wholly formed" "in a manner that required qualifying fabrics to be dyed and finished in the United States, made the program cost prohibitive." One of AAFA's recommendations for the program is therefore to "reverse the 'wholly formed' interpretation by the Commerce Department."<sup>14</sup>

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<sup>13</sup> Dominican apparel producer representative, telephone interview by USITC staff, April 17, 2013.

<sup>14</sup> AAFA, written submission to the USITC, April 10, 2013.



# Bibliography

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- American Apparel & Footwear Association. Written submission to the U.S. International Trade Commission in connection with inv. no. 332-503, *Textiles and Apparel: Evaluation of the Effectiveness of the Earned Import Allowance Program for Certain Apparel from the Dominican Republic; Fourth Annual Review*, April 12, 2013.
- Embassy of the Dominican Republic. Written submission to the U.S. International Trade Commission in connection with inv. no. 332-503, *Textiles and Apparel: Evaluation of the Effectiveness of the Earned Import Allowance Program for Certain Apparel from the Dominican Republic; Fourth Annual Review*, April 10, 2013.
- Emergingtextiles.com. "U.S. Apparel Imports in 2005–2012 per Category: Statistical Report," April 25, 2012. <http://www.EmergingTextiles.com>.
- Fishman & Tobin, Inc. Written submission to the U.S. International Trade Commission in connection with inv. no. 332-503, *Textiles and Apparel: Evaluation of the Effectiveness of the Earned Import Allowance Program for Certain Apparel from the Dominican Republic; Fourth Annual Review*, April 12, 2013.
- Global Trade Information Service, Inc. (GTIS). Global Trade Atlas database (May 8, 2013).
- School Apparel, Inc. Written submission to the U.S. International Trade Commission in connection with inv. no. 332-503, *Textiles and Apparel: Evaluation of the Effectiveness of the Earned Import Allowance Program for Certain Apparel from the Dominican Republic; Fourth Annual Review*, March 28, 2013.
- U.S. Department of Commerce (USDOC). Office of Textiles and Apparel (OTEXA). "Free Trade Agreements: DR-CAFTA; Two for One Earned Import Allowance Program." <http://web.ita.doc.gov/tacgi/fta.nsf/6b2bbf77ad031a928525737d0053e0b1/eb15d50f3c6ebc84852575770064d0ae?OpenDocument&country=FTA> (accessed various dates).
- U.S. International Trade Commission (USITC). *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic; Third Annual Review*. USITC Publication 4340. Washington, DC: USITC, 2012. <http://www.usitc.gov/publications/332/pub4340.pdf>.
- . *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic; Second Annual Report*. USITC Publication 4246. Washington, DC: USITC, 2011. <http://www.usitc.gov/publications/332/pub4246.pdf>.
- . *Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic*. USITC Publication 4175. Washington, DC: USITC, 2010. <http://www.usitc.gov/publications/332/pub4175.pdf>.
- . Interactive Tariff and Trade DataWeb (DataWeb)/U.S. Department of Commerce (USDOC). <http://dataweb.usitc.gov> (accessed various dates).



**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 “ethnic” 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 “Carribean” 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.

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

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General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** This investigation was instituted by notice on October 25, 2012, based upon a complaint filed by Avago Technologies Fiber IP (Singapore) Pte. Ltd. of Singapore ("Avago Fiber IP"); Avago General IP and Avago Technologies alleging a violation of section 337 in the importation, sale for importation, or sale within the United States after importation of certain optoelectronic devices for fiber optic communications, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,947,456 and 5,596,595 (collectively, "Asserted Patents"). 77 FR 65713 (Oct. 30, 2012). The Commission named IPtronics A/S of Roskilde, Denmark; IPtronics Inc. of Menlo Park, California; FCI USA, LLC, of Eters, Pennsylvania; FCI Deutschland GmbH of Berlin, Germany; FCI SA of Guyancourt, France; Mellanox Technologies, Inc. of Sunnyvale, California; and Mellanox Technologies Ltd. of Yokneam, Israel (collectively, "Respondents") as respondents. The Commission also named the Office of Unfair Import Investigations ("OUII") as a party in this investigation.

On December 21, 2012, complainants Avago General IP and Avago Technologies (collectively, "Avago") filed a motion to amend the complaint and NOI to reflect the merger of original complainants, Avago Fiber IP and Avago General IP. Avago also moved to amend the complaint and NOI to reflect the change in ownership of the Asserted Patents from Avago Fiber IP to Avago General IP by virtue of an assignment from the merger. The motion states that Avago General IP remains the sole surviving entity as a result of the merger

and that the OUII does not oppose the motion. On January 4, 2013, Respondents opposed the motion. Specifically, the Respondents opposed the withdrawal of Avago Fiber IP as a complainant; they did not oppose the amendments that reflect the assignment of the Asserted Patents to Avago General IP.

On February 7, 2013, the ALJ issued the subject ID granting Avago's motion. The ALJ found that good cause exists and that the interests of the parties and the public will be best served by amending the complaint and NOI. No party petitioned for review of the ID. The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.21, 210.42(h).

Issued: March 8, 2013.

By order of the Commission.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013-05865 Filed 3-13-13; 8:45 am]

**BILLING CODE 7020-02-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, Fourth Annual Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of opportunity to provide written comments in connection with the Commission's fourth 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 fourth 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, Fourth Annual Review*.

**DATES:** April 12, 2013: Deadline for filing written submissions.

July 26, 2013: Transmittal of fourth 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 Web site (<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 to evaluate its effectiveness and make 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 its report on the third annual review (USITC Publication 4175) on July 26, 2012: The Commission expects to submit its report on its fourth annual review by July 26, 2013.

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 fourth 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). All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). 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.

Issued: March 8, 2013.

By order of the Commission.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013-05830 Filed 3-13-13; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**Manufacturer of Controlled Substances, Notice of Registration; Johnson Matthey, Inc.**

By Notice dated November 5, 2012, and published in the **Federal Register** on November 13, 2012, 77 FR 67676, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066-1742, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Tetrahydrocannabinols (7370) .....	I
Dihydromorphine (9145) .....	I
Difenoxin (9168) .....	I
Propiram (9649) .....	I
Amphetamine (1100) .....	II
Methamphetamine (1105) .....	II
Lisdexamfetamine (1205) .....	II
Methylphenidate (1724) .....	II
Nabilone (7379) .....	II
Cocaine (9041) .....	II
Codeine (9050) .....	II
Dihydrocodeine (9120) .....	II
Oxycodone (9143) .....	II
Hydromorphone (9150) .....	II
Diphenoxylate (9170) .....	II
Ecgonine (9180) .....	II
Hydrocodone (9193) .....	II
Meperidine (9230) .....	II
Methadone (9250) .....	II
Methadone intermediate (9254) ...	II
Morphine (9300) .....	II
Thebaine (9333) .....	II

Drug	Schedule
Oxymorphone (9652) .....	II
Noroxymorphone (9668) .....	II
Alfentanil (9737) .....	II
Remifentanil (9739) .....	II
Sufentanil (9740) .....	II
Fentanyl (9801) .....	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey, Inc., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Johnson Matthey, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 27, 2013.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2013-05803 Filed 3-13-13; 8:45 am]

**BILLING CODE 4410-09-P**

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Comment Request for Information Collection: Confidentiality and Disclosure of State Unemployment Compensation Information Final Rule and State Income and Eligibility Verification Provisions of the Deficit Reduction Act of 1984, Extension Without Change**

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed

## **APPENDIX C**

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

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**we wear™ jobs**

April 12, 2013

Secretary  
United States International Trade Commission  
500 E Street SW  
Washington, DC 20436

RE: **Inv. No. No. 332-503, Earned Import Allowance Program:  
Evaluation of the Effectiveness of the Program for Certain Apparel  
from the Dominican Republic)**  
[http://www.usitc.gov/secretary/fed\\_reg\\_notices/332/332-325\\_notice12202012sgl.pdf](http://www.usitc.gov/secretary/fed_reg_notices/332/332-325_notice12202012sgl.pdf)

To Whom It May Concern:

On behalf of the American Apparel & Footwear Association (AAFA) – the national trade association of the apparel and footwear industries, and their suppliers – I am writing to comment on the referenced annual study by the International Trade Commission’s (ITC) study on the effectiveness of the Earned Import Allowance Program.

By way of background, the AAFA represents about 425 companies accounting for about 1000 brands. Our members design make, market, and sell clothes, shoes, and fashion accessories in the United States and in nearly every country around the world, including in the Dominican Republic.

As you may recall, we have commented on this program in the past during the previous ITC investigations. We appreciate the continued opportunity to comment, and recognize that the request for comment is mandated by Congress. However, we are puzzled why Congress, after three years of reports showing how the program has failed to satisfy its goals, does not take action to rectify the situation. This is equally perplexing as there was strong bipartisan and bicameral support for the program when it was first enacted.

In 2012, the ITC reported, “Three years after its implementation, the Earned Import Allowance Program (EIAP) is not providing enough incentives to help boost the competitiveness of Dominican apparel exports in the U.S. market, as intended.” That report further states, “The USITC received several recommendations from industry and other sources concerning improvements to the EIAP. The recommendations were the same as those offered during the first and second annual reviews. They included lowering the 2-for-1 ratio of U.S. to foreign fabric to a 1-for-1 ratio; including other types of fabrics and apparel items in the EIAP; and changing the requirement that dyeing, finishing, and printing of eligible fabrics take place in the United States.”

In 2011, the ITC reported “The Earned Income Allowance Program (EIAP) appears to provide insufficient incentive to increase production of woven cotton bottoms in the Dominican Republic.”

The 2010 report, which was initially optimistic, reported that “The Earned Income Allowance Program (EIAP) had initial beneficial effects on U.S. and Dominican textile and apparel industries.” However, it further noted, “reports on planned use of the program going forward have been mixed, as some Dominican trouser manufacturers and U.S. firms that import woven cotton trousers from the Dominican Republic indicate the

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program may become less cost-effective in the future. A few of the firms indicated that they may move production out of the Dominican Republic if it is no longer economical to produce there.”

This unmistakable negative trend is reinforced by trade statistics published on the website of the Commerce Department agency that implements this program. In 2012, U.S. apparel imports under the EIAP equaled \$11.4 million. This represents a 45 percent drop from the 2011 levels of \$20.6 million (which in turn represents a 37 percent drop from 2010 levels). Data for the first two months of 2013 are running at a level of about 1/4 of the 2012 levels. This drop in qualifying imports under the EIAP has been accompanied by a parallel drop in all woven cotton bottom imports (the class of garments eligible to be imported under the EIAP) into the United States from the Dominican Republic.

Although there was initial enthusiasm for the program, a decision by the Commerce Department to interpret the term “wholly formed” in a manner that required qualifying fabrics to be dyed and finished in the United States, made the program cost prohibitive. As a result, companies either shifted production out of the Dominican Republic or discontinued use of the Earned Import Allowance Program (EIAP), or both.

Unless rectified, we continue to see the program as providing little benefit for any of the stakeholders. U.S. and Dominican apparel companies will not use the program to be competitive nor will U.S. textile companies see fabric exports occur as a result.

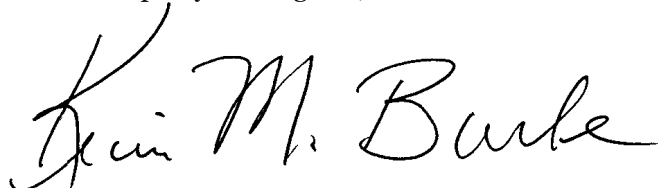
We believe several strategies could be employed that could arrest this decline, creating real opportunities for apparel production and U.S. textile exports. Not surprisingly, these suggestions were included in past reports and we would respectfully ask that they be cited in the 4th report as well:

- Modify the 2:1 ratio to 1:1;
- Reverse the “wholly formed” interpretation by the Commerce Department: and
- Expand the program coverage to enable other kinds of fabrics and products to gain benefits.

It is our hope that these recommendations could be considered by Congress and implemented this year.

In the meantime, thank you again for providing us this opportunity to submit comments on this matter. If you have any questions or comments, please feel free to contact Steve Lamar (slamar@wewear.org) or Nate Herman (nherman@wewear.org) in my office.

Please accept my best regards,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive, flowing style.

Kevin M. Burke  
President & CEO

April 10, 2013  
Washington, D.C.

Mrs. Lisa R. Barton  
Acting Secretary to the Commission  
International Trade Commission  
500 E Street SW  
Washington, D.C. 20436

**Re: Comments from the Government of the Dominican Republic, with regards to the fourth 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 10<sup>th</sup>, 2013.**

Dear Mrs. Barton:

Pursuant to your office's notice to provide written observations concerning the International Trade Commission (ITC) fourth annual review on the effectiveness of the Earned Import Allowance Program (EIAP), published March 14, 2013 in the Federal Register (78 FR 16297), 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 four years of implementation, 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. According to statistics provided by the National Free Zones Council of the Dominican Republic (CNZFE), for its fourth consecutive year, the apparel manufacturers are still losing business and further layoffs are expected unless the program is optimized to make it efficient for users.

In the period 2004-2009, the Dominican apparel industry experienced a recession that markedly affected employment and exports. In the mentioned period, CNZFE registered a decline in employment of 49%. Moreover, the value of total apparel exports to the United States decreased 59%, and the value of Dominican imports of fabrics manufactured in the United States decreased 69%. When considering only cotton broadwoven fabrics, the decrease has been 91%, according to OTEXA's data. This is particularly important taking into account that last year our country was the fifth largest export market for cotton broadwoven fabric manufactured in the United States. However, five years ago, the Dominican Republic was the second largest.


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 reveal with more clarity that it is an insufficient policy to preserve the purchasing volumes of U.S. fabrics by the Dominican apparel sector. For the complete duration of the EIAP implementation period, we have been constantly receiving reports from our apparel manufacturers, stressing the unavailability of several types of fabrics in the U.S., due to price competitiveness and to the relocation of facilities and strategic operations to Asia.

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. U.S. man-made fibers, which has evidenced a growth of 28.7% in the past three years and denims) these companies would be able to regain competitiveness.

It is imperative to highlight that in 2012, Dominican cotton bottom exports to the U.S. using regional/U.S. inputs decreased 36.7%. On the contrary, non-DR-CAFTA qualifying exports of the same product increased 187.4%. These statistics demonstrate that exporters have been forced to carry the burden of the non-preferential tariff due to the cotton woven fabric unavailability in the region.

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 30.2%). 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. International Trade Commission the assurance of its highest consideration.

Sincerely,  
4/0  
  
Anibal de Castro  
Ambassador  
EMBASSY OF THE DOMINICAN REPUBLIC  
WASHINGTON, D.C.

ADC/cpf



002640

*"Año del Bicentenario del Natalicio de Juan Pablo Duarte"*

Mr. Anibal De Castro  
Ambassador  
Embassy of the Dominican Republic in the United States of America  
1715 22nd Street NW  
Washington, D.C. 20008

Re: International Trade Commission's fourth annual review of the Dominican Republic Earned Import Allowance Program (DR-EIAP).

Dear Ambassador De Castro:

On March 14 of the current year, the United States International Trade Commission (USITC) made public in the Federal Register (78 FR 16297) the fourth annual review of the Dominican Republic Earned Import Allowance Program (DR-EIAP), under investigation No. 332-503. In that regard, pursuant to section 404(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 (CNZFE) wishes to communicate -through the Embassy, its current view on the effectiveness of the mentioned program.

In this occasion, our government reiterates its understanding that the effectiveness of the DR-EIAP should always be evaluated as an instrument to maintain the competitiveness of the apparel manufacturers in the Dominican Republic, while promoting exports and jobs in the US textile industry. Additionally, it is imperative to bear in mind that this program was designed to fulfill a commitment to our country, 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 of equivalent measures to preserve the competitiveness of the industry.

Accordingly, we would like to emphasize the relevance and recent performance of the apparel industry in the Free Zones of the Dominican Republic, and its links to the United States textile industry. This industry continues to be one of the strongest economic sectors in our country, contributing nearly 3% of the country's Gross Domestic Product (GDP). Furthermore, in the Free Zones, which is one of the greatest employers of the country -mainly in economic depressed areas- apparel manufacturers employ 30.2% of total jobs.



Notwithstanding the trade preferential treatment granted by the United States to the Dominican Republic -in the context of DR-CAFTA's textile provisions and EIAP- in the period 2004-2009, the Dominican apparel industry experienced a recession that markedly affected employment and exports. In the mentioned period, CNZFE registered a decline in employment of 49%. Moreover, the value of total apparel exports to the United States decreased 59%, and the value of Dominican imports of fabrics manufactured in the United States, decreased 69%. When considering only cotton broadwoven fabrics, the decrease has been 91%, according to data from the U.S. Office for Textile and Apparel. This is particularly important taking into account that last year, our country was the fifth largest export market for cotton broadwoven fabric manufactured in the United States. However, five years ago, the Dominican Republic was the second largest market.

Nevertheless, in the subsequent period 2009-2012, the Dominican Republic evidenced a slow and gradual recovery of its exports, achieving a modest growth of 6%, even when facing strong competition from Asian manufacturers who receive substantial grants from their respective governments. Regardless of the latest growing period, US cotton broadwoven exports to the Dominican Republic have decreased, while other woven fabrics, such as man-made fibers, evidenced a growth of 28.7%.

As pointed out in previous communications sent to the USITC, there are several elements undermining the effectiveness and potential of the DR-EIAP. These elements suggest that an upgrade in DR-EIAP is needed to restore competitiveness to the industry. For the complete duration of the EIAP implementation period, we have been constantly receiving reports from our apparel manufacturers, stressing the unavailability of several types of fabrics in the U.S., due to price competitiveness and to the relocation of facilities and strategic operations to Asia. For this reason, most of the fabrics demanded by the market are now being developed and manufactures outside the U.S. Consequently, these materials must be purchased from companies located in Asia, which makes it almost impossible for producers to collect enough credits in their EIAP account.

From a broader perspective, recent USITC data supports this assertion. In 2012, Dominican cotton bottom exports to the US using regional/US inputs decreased 36.7%. On the other hand, non-DR-CAFTA qualifying exports of the same products increased 187.4%. In that scenario, exporters have been forced to carry the burden of the non-preferential tariff due to the cotton woven fabric unavailability in the Region.

At the same time, the inability to exploit the potential of the program has obligated cotton bottoms manufacturers to develop other market segments. Recently, we have observed an overall growth trend in man-made fiber products exports that could represent an opportunity for improving the effectiveness of the program, for both Dominican apparel manufacturers and US woven fabric exporters. According to the

USITC Dataweb, last year Dominican exports of man-made fiber bottoms using DR-CAFTA inputs experienced a growth of 11.5%. Including other fabrics in the program would further increase other US woven fabric exports to the Dominican Republic, promoting at the same time competitiveness of Dominican apparel manufacturers, fulfilling the original intention of the program.

Finally, we maintain our position that in order to make effective the DR-EIAP and maintain its objective of preserving competitiveness of trouser manufacturers in the Dominican Republic, the current 2:1 ratio of the Program should be changed to a 1:1 ratio. Considering the current state of the U.S. textile industry and the new sources for the fabrics demanded by the market, the Dominican apparel manufacturers are unable to take full benefit of the Program, as import-exports statistics confirm. 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 U.S. and Dominican Republic. We are confident that our proposal would fully exploit the potential of the program.

Sincerely,



**Luisa Fernandez Duran**  
Ambassador - Executive Director

LFD/DL/edc



# fishman & tobin inc

April 12, 2013

Lisa R. Barton  
Acting Secretary  
United States International Trade Commission  
500 E Street SW  
Washington, DC 20436

**Ref: Inv. No. No. 332-503, Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic)**  
[http://www.usitc.gov/secretary/fed\\_reg\\_notices/332/332-325\\_notice12202012sgl.pdf](http://www.usitc.gov/secretary/fed_reg_notices/332/332-325_notice12202012sgl.pdf)

Dear Secretary Barton,

On behalf of Fishman & Tobin, I am writing to comment on the referenced annual study by the International Trade Commission's (ITC) study on the effectiveness of the Earned Import Allowance Program. Fishman & Tobin is a manufacturer of boy's apparel. We have been in business for 99 years and employ approximately 2,000 workers in our factories in the Dominican Republic, which makes this program very important to us.

We have attached a copy of our 2011 comments which represent our continued view that the program, as currently structured, does not affect Fishman & Tobin since its incentives are far outweighed by the costs to use the program.

We have long advocated for changes to the program, including expanding the scope of products and fabrics eligible under the EIAP, reducing the 2:1 ratio to 1:1, and modifying the dyeing and finishing restriction. Unless such changes are made, the EIAP will continue to have no relevance to our business.

Should you have any comments, please feel free to contact me.

Sincerely,



Mark Fishman  
President

Attachment: 2011 Fishman and Tobin comments to ITC on EIAP.

# fishman & tobin . inc

February 23, 2011

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

Dear Secretary Holbein,

My name is Mark Fishman and I am CEO and Chairman of Fishman & Tobin, Inc. 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 dyeing 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 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.

James Holbein  
Page 2

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.

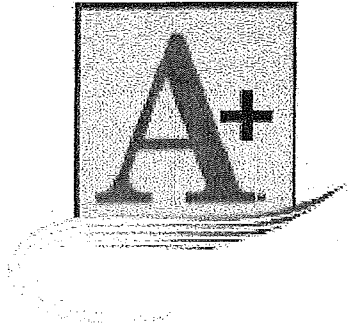
I can honestly tell you that without doing something to help the industry in the Dominican Republic, the severe decline that has occurred will continue. If, on the other hand, the goal is to increase production there, I urge you to look at the suggestions that I outlined above. Feel free to call me if 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  
Chairman

MF/sf



School Apparel, Inc.  
401 Knoss Avenue  
Star City, AR 71667  
USA

Written submission for  
Investigation No. 332-503  
Earned Import Allowance Program: Evaluation  
of the Effectiveness of the Program for Certain  
Apparel from the Dominican Republic,  
Fourth Annual Review

2013



SAI

401 Knoss Avenue ♦ Star City, AR 71667-5223 ♦ Phone: 870.628.4232 ♦ Fax: 870.628.3211

by: SAI

March 28, 2013

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

Dear Secretary,

My name is Gerry McGee and I am with School Apparel, Incorporated. School Apparel is a uniform company doing business in the United States and has offices in Burlingame, California and Star City, Arkansas. Our main distribution center is located in Star City, Arkansas.

We currently source within the Dominican Republic at several locations. We have *not* taken advantage of the current Earned Import Allowance Program until recently. We are now in the process of getting some of our U.S. wholly-formed goods verified and getting the resulting 2 for 1 credits. We just recently completed our application for an account.

While this program will assist us with several styles of fabric that have become problematic in recent months, it could do more. We would like to see the credits increased to a 1 for 1 ratio as stated by several participants. This could move production and finalize decisions that are pending on several styles. These decisions could move production out of the region for fabrics in which problems exist.

Our current production from the region is 120,000 units per month. While we will not be increasing our production number in the region, the 1 for 1 credit could keep the stated amount in the region. We will continue using U.S. wholly-formed goods for several of our larger programs and getting the increased credits could keep current production levels in place.

We appreciate any consideration.

Regards,

Gerry McGee  
Manufacturing Operations  
School Apparel, Inc.

**Daily Wear. Easy Care. Wear-Tested Guaranteed!**  
**Customer Service Phone:** 800.227.3215 ♦ **Fax:** 888.628.9020 ♦ **Email:** info@apluseveryday.com  
www.apluseveryday.com