H. R. 6142

To amend the African Growth and Opportunity Act relating to preferential treatment to apparel articles of lesser developed countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2006

Mr. Thomas introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the African Growth and Opportunity Act relating to preferential treatment to apparel articles of lesser developed countries, and for other purposes.

SECTION 1. TABLE OF CONTENTS.

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1 Be it enacted by the Senate and House of Representa-tives of the United States of America in Congress assembled,

2 SECTION 1. TABLE OF CONTENTS.

3 The table of contents of this Act is as follows:

Sec. 1. Table of contents.

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TITLE I—AFRICAN GROWTH AND OPPORTUNITY ACT

SEC. 101. SHORT TITLE.

This title may be referred to as the “Africa Investment Incentive Act of 2006”.

SEC. 102. PREFERENTIAL TREATMENT OF APPAREL PRODUCTS OF LESSER DEVELOPED COUNTRIES.

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

(1) by redesignating subsections (c) through (e) as subsections (d) through (f);

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “The” and inserting “Subject to subsection (e), the”; and

(B) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and
(3) by inserting after subsection (b) the following new subsection:

“(c) LESSER DEVELOPED COUNTRIES.—

“(1) PREFERENTIAL TREATMENT OF PRODUCTS THROUGH SEPTEMBER 30, 2008.—

“(A) PRODUCTS COVERED.—In addition to the products described in subsection (b), and subject to paragraph (4), the preferential treatment described in subsection (a) shall apply through September 30, 2008, to apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means—

“(i) 2.9285 percent for the 1-year period beginning October 1, 2005;
“(ii) 3.5 percent for the 1-year period beginning October 1, 2006; and

“(iii) 3.5 percent for the 1-year period beginning October 1, 2007.

“(2) PREFERENTIAL TREATMENT OF PRODUCTS BEGINNING OCTOBER 1, 2008.—

“(A) IN GENERAL.—In addition to the products described in subsection (b), the preferential treatment described in subsection (a) shall apply to apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from a lesser developed beneficiary sub-Saharan African country during an applicable 1-year period, subject to the limitations set forth in this subsection.

“(B) ARTICLES DESCRIBED.—The apparel articles referred to in subparagraph (A) are apparel articles that are wholly assembled, or are knit-to-shape, in a lesser developed beneficiary sub-Saharan African country from any combination of fabrics, fabric components, components knit-to-shape, and yarns.

“(C) RESTRICTIONS IN SECOND THROUGH SEVENTH APPLICABLE 1-YEAR PERIODS.—The
preferential treatment under subparagraph (A) applies to apparel articles described in subparagraph (B) in each of the second through seventh applicable 1-year periods only if, for each entry in the preceding applicable 1-year period, the sum of—

“(i) the cost or value of the materials produced in one or more beneficiary sub-Saharan African countries or one or more countries described in subparagraph (E), or any combination thereof, plus

“(ii) the direct costs of processing operations (as defined in section 213(a)(3)) of the Caribbean Basin Economic Recovery Act performed in one or more beneficiary developed beneficiary sub-Saharan African countries or one or more countries described in subparagraph (E), or any combination thereof,

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

“(D) DEDUCTIONS.—In calculating cost or value under subparagraph (C)(i), there shall be deducted the cost or value of—
“(i) any foreign materials that are used in the production of the apparel articles in a lesser developed beneficiary Saharan African country; and

“(ii) any foreign materials that are used in the production of the materials described in subparagraph (C)(i).

“(E) COUNTRIES DESCRIBED.—The countries referred to in subparagraph (C) are the following:

“(i) The United States.

“(ii) Any country that is a party to a free trade agreement with the United States that is in effect on the date of the enactment of the Africa Investment Incentive Act of 2006, or that enters into force under the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.).

“(iii) Any country designated as a beneficiary country under section 213(b)(5)(B) of the Caribbean Basin Economic Recovery Act.

“(iv) Any country designated as a beneficiary country under section
204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)).

“(F) ANNUAL AGGREGATION.—The requirements under subparagraph (C) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during an applicable 1-year period by aggregating—

“(i) the cost or value of materials under subparagraph (C)(i), and

“(ii) the direct costs of processing operations under subparagraph (C)(ii), of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in a lesser developed beneficiary sub-Saharan African country and are entered during that applicable 1-year period.

“(G) DEDUCTIONS.—In calculating the cost or value under subparagraph (F)(i), there shall be deducted the cost or value of—

“(i) any foreign materials that are used in the production of the articles in a lesser developed beneficiary sub-Saharan African country; and
“(ii) any foreign materials that are used in the production of the materials described in subparagraph (F)(i).

“(H) QUANTITATIVE LIMITATIONS.—The preferential treatment described in this paragraph shall be extended, during each applicable 1-year period, to not more than 3.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available. No preferential treatment shall be provided under this paragraph after the last day of the seventh applicable 1-year period.

“(I) DEFINITIONS.—In this paragraph:

“(i) APPLICABLE 1-YEAR PERIOD.—

“(I) IN GENERAL.—The term ‘applicable 1-year period’ means each of the 1-year periods described in subclauses (I) through (VIII).

“(II) INITIAL 1-YEAR PERIOD.— The term ‘initial 1-year period’ means the 1-year period beginning October 1, 2008.

“(III) SECOND APPLICABLE 1-YEAR PERIOD.—The term ‘second ap-
 applicable 1-year period’ means the 1-
year period beginning October 1, 2009.

“(IV) Third applicable 1-year period.—The term ‘third applicable 1-year period’ means the 1-year period beginning October 1, 2010.

“(V) Fourth applicable 1-year period.—The term ‘fourth applicable 1-year period’ means the 1-year period beginning October 1, 2011.

“(VI) Fifth applicable 1-year period.—The term ‘fifth applicable 1-year period’ means the 1-year period beginning October 1, 2012.

“(VII) Sixth applicable 1-year period.—The term ‘sixth applicable 1-year period’ means the 1-year period beginning October 1, 2013.

“(VIII) Seventh applicable 1-year period.—The term ‘seventh applicable 1-year period’ means the 1-year period beginning October 1, 2014.
“(ii) Applicable percentage.—The term ‘applicable percentage’ means—

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

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

“(III) 60 percent or more during the fifth, sixth, and seventh applicable 1-year periods.

“(3) Development of procedure to ensure compliance.—

“(A) In general.—The Bureau of Customs and Border Protection of the Department of Homeland Security shall, not later than 1 year after the date of enactment of the Africa Investment Incentive Act of 2006, develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in paragraph (2).

“(B) Noncompliance.—If the Bureau of Customs and Border Protection finds that a producer or an entity controlling production has
not satisfied the requirements of paragraph (2) in any applicable 1-year period, then apparel articles described in paragraph (2)(B) of that producer or entity shall be ineligible for preferential treatment under paragraph (2) during any succeeding applicable 1-year period until—

“(i) the cost or value of materials under paragraph (2)(C)(i), plus

“(ii) the direct costs of processing operations under paragraph (2)(C)(ii),

of that producer or entity controlling production, is not less than the applicable percentage that would otherwise apply under paragraph (2)(C), plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in a sub-Saharan African country and are entered during the preceding applicable 1-year period.

“(C) Retroactive Application of Duty-Free Treatment.—

“(i) In general.—If—

“(I) a producer or an entity controlling production is ineligible for
preferential treatment under paragraph (2) in an applicable 1-year period because that producer or entity controlling production did not satisfy the requirements of paragraph (2)(C) or (2)(F), and "(II) that producer or entity controlling production satisfies the requirements of subparagraph (B) of this paragraph in that applicable 1-year period,
then, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision on law, upon proper request filed with the Bureau of Customs and Border Protection before the 90th day after the Bureau of Customs and Border Protection determines that subclause (II) applies, any entry described in clause (ii) shall be liquidated or reliquidated as though such preferential treatment applied to such entry.
"(ii) ENTRIES.—An entry is described in this clause if it is an entry of any articles—
“(I) that was made during the applicable 1-year period referred to in clause (i)(I); and

“(II) with respect to which there would have been preferential treatment under paragraph (2) if the producer or entity controlling production had satisfied the requirements of paragraph (2)(C) or (2)(F) (as the case may be).

“(D) FABRICS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—For purposes of determining the applicable percentage under paragraph (2)(C) or (2)(F), there may be included in that percentage—

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

“(ii) the cost of fabrics or yarns that are designated as not being available in commercial quantities for purposes of—
“(I) section 213(b)(2)(A)(v) of the Caribbean Basin Economic Recovery Act,

“(II) paragraph (5) of this subsection,

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

“(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement that enters into force under the Bipartisan Trade Promotion Authority Act of 2002,

without regard to the source of the fabrics or yarns.

“(4) Special rules for products in commercial quantities in Africa.—

“(A) Petition process.—Upon a petition filed by an interested party (which may include a foreign manufacturer), the Commission shall determine whether a fabric or yarn produced in beneficiary sub-Saharan African countries is
available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries.

“(B) Effect of Affirmative Determination.—

“(i) Determination of Quantity Available.—If the Commission determines under subparagraph (A) that a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries, the Commission shall determine the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period (as defined in paragraph (2)(H)) beginning after the determination is made.

“(ii) Determinations.—In each case in which the Commission determines that a fabric or yarn is available in commercial quantities under subparagraph (A) for an applicable 1-year period, the Commission
shall determine, before the end of that applicable 1-year period—

“(I) whether the fabric or yarn produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period; and

“(II) if so, the quantity of the fabric or yarn that will be so available in that succeeding 1-year period, subject to clause (iii).

“(iii) Determination regarding imported articles.—After the end of each applicable 1-year period for which a determination under clause (i) is in effect, the Commission shall determine to what extent the quantity of the fabric or yarn determined under clause (i) to be available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries was used in the production of apparel articles receiving preferential treatment under paragraph (1) or (2) that were entered in that applicable 1-year period. To the extent that the quantity so deter-
mined was not so used, then the Commission shall add to the quantity of that fabric or yarn determined to be available in the next applicable 1-year period the quantity not so used in the preceding applicable 1-year period.

“(C) DENIM.—Denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States shall be deemed to have been determined to be in abundant supply under subparagraph (A) in an amount of 30,000,000 square meter equivalents for the 1-year period beginning October 1, 2006.

“(D) PRESIDENTIAL AUTHORITY TO RESTRICT IMPORTS.—

“(i) IN GENERAL.—Subject to clause (ii), the President may by proclamation provide that apparel articles otherwise eligible for preferential treatment under paragraph (1) or (2) that contain a fabric or yarn determined to be available in commercial quantities under subparagraph (A) may not receive such preferential treat-
ment in an applicable 1-year period un-
less—

“(I) the fabric or yarn in such
articles was produced in 1 or more
beneficiary sub-Saharan African coun-
tries; or

“(II) the Commission has deter-
mined that the quantity of the fabric
or yarn determined under subpara-
graph (B) (or (C), as the case may
be) to be available in lesser developed
beneficiary sub-Saharan African coun-
tries for that applicable 1-year period
has already been used in the produc-
tion of apparel articles receiving pref-
ential treatment under paragraph
(1) or (2) that were entered in that
applicable 1-year period.

“(ii) MANDATORY RESTRICTION.—If a
fabric or yarn is determined to be available
in commercial quantities under subpara-
graph (A) in an applicable 1-year period,
and for 2 consecutive applicable 1-year pe-
riods the quantities determined to be so
available are not used in the production of
apparel articles receiving preferential treatment under paragraph (1) or (2) that were entered during those 2 applicable 1-year periods, then beginning in the succeeding applicable 1-year period, apparel articles containing that fabric or yarn are ineligible for preferential treatment under paragraph (1) or (2) in any succeeding applicable 1-year period unless the Commission has determined that the quantity of the fabric or yarn determined under subparagraph (B) (or (C), as the case may be) to be available in lesser developed beneficiary sub-Saharan African countries for that applicable 1-year period has already been used in the production of apparel articles receiving preferential treatment under paragraph (1) or (2) that were entered in that applicable 1-year period.

“(E) PROCEDURES.—The Commission shall use the procedures prescribed in subsection (b)(3)(C)(iv) for the Secretary of Commerce in making determinations under this paragraph.
“(5) Removal of designation of fabrics or yarns not available in commercial quantities.—If the President determines that—

“(A) any fabric or yarn described in paragraph (4)(A) was determined to be eligible for preferential treatment, or

“(B) any fabric or yarn described in paragraph (4)(B) was designated as not being available in commercial quantities, on the basis of fraud, the President may remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

“(6) Applicability of other provisions.—Subsection (b)(3)(C) applies to apparel articles eligible for preferential treatment under this subsection to the same extent as that subsection applies to apparel articles eligible for preferential treatment under subsection (b)(3).

“(7) Definitions.—In this subsection:


“(B) Enter; entry.—The terms ‘enter’ and ‘entry’ refer to the entry, or withdrawal
from warehouse for consumption, in the customs territory of the United States.

“(C) FOREIGN MATERIAL.—The term ‘foreign material’ means a material produced in a country other than a sub-Saharan African country or a country described in paragraph (2)(E).

“(D) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—The term ‘lesser developed beneficiary sub-Saharan African country’ means—

“(i) 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;

“(ii) Botswana; and

“(iii) Namibia.”.

(b) ADDITIONAL PREFERENTIAL TREATMENT.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended by adding at the end the following new paragraph:

“(8) TEXTILE ARTICLES ORIGINATING ENTIRELY IN ONE OR MORE LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Tex-
tile articles, other than apparel articles, that are wholly assembled, or are knit-to-shape, in one or more lesser developed beneficiary sub-Saharan African countries, from fabrics, fabric components, components knit-to-shape, and yarns originating entirely in one or more lesser developed beneficiary sub-Saharan African countries.”.

(c) TECHNICAL AMENDMENT.—Section 112(e)(3) of the African Growth and Opportunity Act (as redesignated by subsection (a)(1) of this section) is amended by striking “subsection (b)” and inserting “subsections (b) and (c)”.

SEC. 103. TECHNICAL CORRECTIONS.

Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended as follows:

(1) Subsection (b)(5) is amended by adding at the end the following new subparagraph:

“(C) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under subparagraph (A) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.”.
(2) Subsection (e) is amended by adding at the end the following:

“(4) ENTER; ENTERED.—The terms ‘enter’ and ‘entered’ refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.”.

(3) Subsection (f) is amended by striking “2008” and inserting “2015”.

SEC. 104. SUB-SAHARAN AFRICA ECONOMIC ACTIVITY CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

“SEC. 30D. SUB-SAHARAN AFRICA ECONOMIC ACTIVITY CREDIT.

“(a) ALLOWANCE OF CREDIT.—Except as otherwise provided in this section, if a domestic corporation elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter the amount determined under subsection (b).

“(b) AMOUNT OF CREDIT.—The amount determined under this subsection is the excess of—

“(1) the product of the highest rate of tax specified in section 11(b) multiplied by the taxable in-
come (determined without regard to any deduction for the taxes described in paragraph (2)), from sources without the United States, from the active conduct of a qualified trade or business within sub-Saharan Africa, over

“(2) the aggregate taxes described in section 901(b)(1) which are paid or accrued with respect to such income.

“(c) LIMITATION TO TAX ATTRIBUTABLE TO FOREIGN SOURCE INCOME.—

“(1) IN GENERAL.—The amount determined under subsection (b) for any taxable year shall not exceed the excess of—

“(A) the amount which bears the same ratio to the tax against which such credit is taken which the taxpayer’s taxable income from sources without the United States (but not in excess of the taxpayer’s entire taxable income) bears to the taxpayer’s entire taxable income for the same taxable year, over

“(B) the sum of the credits allowed under section 901, 30A, and 936 for the taxable year.

“(2) ALLOCABLE SHARE OF SPECIFIED ITEMS TAKEN INTO ACCOUNT.—In the case of a taxpayer
whose specified items are increased under subsection (f), paragraph (1) shall be applied—

“(A) by treating the taxpayer’s aggregate allocable share of the taxable income referred to in subsection (f)(2)(A) as taxable income of the taxpayer from sources without the United States, and

“(B) by increasing the amount described in paragraph (1)(B) by the taxpayer’s aggregate allocable share of taxes referred to in subsection (f)(2)(B).

“(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—The amount determined under subsection (b) for any taxable year shall not exceed the sum of the following amounts:

“(1) 60 percent of the sum of—

“(A) the aggregate amount of the domestic corporation’s qualified Africa wages for such taxable year, plus

“(B) the allocable qualified employee fringe benefit expenses of the domestic corporation for such taxable year.

“(2) The sum of—
“(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

“(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

“(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

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

“(1) QUALIFIED TRADE OR BUSINESS.—The term ‘qualified trade or business’ means any trade or business other than—

“(A) the trade or business of mining (as defined in section 613(c)(2)), and

“(B) the trade or business of exploring for, developing, producing, refining, transporting, or selling crude oil or natural gas, or any product thereof.

“(2) QUALIFIED AFRICA WAGES.—

“(A) IN GENERAL.—The term ‘qualified Africa wages’ means, with respect to any taxable year, the excess of—

“(i) the sum of the wages which are paid or incurred during such taxable year
in connection with the active conduct of a qualified trade or business within sub-Saharan Africa to any employee for services performed in sub-Saharan Africa, but only if such services are performed while the principal place of employment of such employee is within sub-Saharan Africa, over

“(ii) the sum of wages (if any) paid or incurred during the last taxable year ending before the date of the enactment of this section in connection with the active conduct of a qualified trade or business within sub-Saharan Africa (determined as of the first day of the taxable year referred to in clause (i)) to any employee for services performed in sub-Saharan Africa (as so determined), but only if such services are performed while the principal place of employment of such employee is within sub-Saharan Africa (as so determined).

“(B) APPLICABLE RULES FOR DETERMINING WAGES.—For purposes of subparagraph (A), rules similar to the rules of subparagraphs (B), (C), and (D) of section 936(i)(1) shall apply.
“(3) QUALIFIED EMPLOYEE FRINGE BENEFIT
EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employee fringe benefit expense’ means, with respect to any taxable year, the excess of—

“(i) the sum of the employee fringe benefit expenses which are paid or incurred during such taxable year in connection with the active conduct of a qualified trade or business within sub-Saharan Africa to or for the benefit of any employee for services performed in sub-Saharan Africa, but only if such services are performed while the principal place of employment of such employee is within sub-Saharan Africa,

“(ii) the sum of the employee fringe benefit expenses paid or incurred during the last taxable year ending before the date of the enactment of this section in connection with the active conduct of a qualified trade or business within sub-Saharan Africa (determined as of the first day of the taxable year referred to in clause (i)) to or for the benefit of any employee for services
performed in sub-Saharan Africa (as so determined), but only if such services are performed while the principal place of employment of such employee is within sub-Saharan Africa (as so determined).

“(B) EMPLOYEE FRINGE BENEFIT EXPENSES.—The term ‘employee fringe benefit expenses’ means with respect to any taxable year the expenses described in section 936(i)(2)(B).

“(4) DEFINITIONS RELATED TO DEPRECIATION.—

“(A) DEPRECIATION ALLOWANCES.—The term ‘depreciation allowances’ means the depreciation deductions allowable under section 167 to the taxpayer.

“(B) QUALIFIED TANGIBLE PROPERTY.—The term ‘qualified tangible property’ means any tangible property—

“(i) substantially all of the use of which is in sub-Saharan Africa in the active conduct of a qualified trade or business by the taxpayer in sub-Saharan Africa,
“(ii) the original use of which in sub-Saharan Africa commences with the taxpayer after September 21, 2006, and

“(iii) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 21, 2006, but only if no written binding contract for the acquisition was in effect on or before such date.

Such term shall not include any vessel or aircraft, including any container used in connection with any such vessel or aircraft, within the meaning of section 863(c)(3).

“(C) Short-, Medium-, and Long-Life Qualified Tangible Property.—The terms ‘short-life qualified tangible property’, ‘medium-life qualified tangible property’, and ‘long-life qualified tangible property’ shall have the same meaning given such terms, respectively, by section 936(i)(4)(B), except that in applying such section the term ‘qualified tangible property’ shall have the meaning given such term by subparagraph (B).

“(5) Sub-Saharan Africa.—The term ‘sub-Saharan Africa’ means, with respect to any taxable
year, the region comprised of countries for which there is in effect on the first day of such taxable year a designation as an eligible sub-Saharan Africa country under section 104 of the African Growth and Opportunity Act (19 U.S.C. 3703).

“(f) Allocation of Items from Controlled Foreign Corporations to United States Shareholders.—

“(1) In General.—For purposes of this section, in the case of a domestic corporation which elects the application of this section, each of the domestic corporation’s specified items shall be increased by such corporation’s allocable share of each such specified item of each controlled foreign corporation with respect to which such domestic corporation is a United States shareholder (as defined in section 951(b)).

“(2) Specified Items.—For purposes of this subsection, the term ‘specified items’ means—

“(A) the taxable income taken into account under subsection (b)(1),

“(B) the taxes taken into account under subsection (b)(2),

“(C) the wages taken into account under clauses (i) and (ii) of subsection (e)(2)(A),
“(D) the expenses taken into account under clauses (i) and (ii) of subsection (e)(3)(A), and

“(E) the depreciation allowances with respect to each class of property under subparagraphs (A), (B), and (C) of subsection (d)(2).

For purposes of determining any specified item of a controlled foreign corporation under this subsection, such corporation shall be treated as a domestic corporation electing the application of this section. For purposes of this paragraph, taxes do not include any withholding tax paid to a foreign government with respect to payments by the controlled foreign corporation to its shareholders.

“(3) ALLOCABLE SHARE.—For purposes of this subsection, the term ‘allocable share’ means, with respect to any item of a controlled foreign corporation which is owned by any United States shareholder (as defined in section 951(b)), the percentage of total combined voting power of all classes of stock entitled to vote of such foreign corporation which is owned by such United States shareholder (within the meaning of section 958(a)), or is considered as owned by such United States shareholder by applying the rules of ownership of section 958(b). For purposes of the...
preceding sentence, section 958(b) shall be applied
in the same manner as in determining whether a
United States person is a United States shareholder
within the meaning of section 951(b).

“(4) DIVIDENDS FROM SUB-SAHARAN AFRICA
BUSINESS ACTIVITY.—Dividends from a controlled
foreign corporation and amounts included in gross
income under section 951(a) (and any taxes associ-
ated with such dividends or amounts under section
902 or 960) shall not be taken into account in deter-
mining the taxable income or taxes which are taken
into account under subsections (b) and (c) to the ex-
tent such dividends or amounts are attributable to
income described in paragraph (2)(A) and taken into
account under paragraph (1).

“(g) CARRYFORWARD.—If the limitation under sub-
section (d) for any taxable year exceeds the credit allowed
under subsection (a) for such taxable year, such excess
shall be carried to the succeeding taxable year and added
to the limitation under subsection (d) for such succeeding
taxable year. No limitation may be carried forward under
this subsection to any taxable year following the tenth tax-
able year after the taxable year in which the limitation
arose. For purposes of the preceding sentence, limitations
shall be treated as used on a first-in first-out basis.
(h) Credit Not Allowed Against Certain Taxes.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

“(1) section 59A (relating to environmental tax),

“(2) section 531 (relating to the tax on accumulated earnings),

“(3) section 541 (relating to personal holding company tax), or

“(4) section 1351 (relating to recoveries of foreign expropriation losses).

(i) Administrative Provisions.—For purposes of this title—

“(1) rules similar to the rules of subsections (b), (g), and (h) of section 936 shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

“(2) the credit under this section shall be treated in the same manner as the credit under section 936 (other than for purposes of subsection (c)), and

“(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.
“(j) Aggregation Rule for Wages and Fringe Benefits.—

“(1) In general.—All members of an expanded affiliated group shall be treated as a single corporation for purposes paragraphs (2) and (3) of subsection (e).

“(2) Expanded affiliated group.—For purposes of paragraph (1), the term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined—

“(A) by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears, and

“(B) without regard to paragraphs (2) and (4) of section 1504(b).

“(k) Election.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply for the taxable year for which made and for each succeeding taxable year. Such election may be revoked only with the consent of the Secretary.

“(l) Regulations.—The Secretary shall prescribe regulations to carry out this section, including regulations—
“(1) for determining the credit under this section for when a country is designated under section 104 of the African Growth and Opportunity Act as an eligible sub-Saharan Africa country on a day other than the first day of the taxable year or if such designation is terminated during the taxable year,

“(2) for determining the allocable share of specified items (as defined in subsection (f)) of a partnership in the case of a domestic corporation or a controlled foreign corporation in which such domestic corporation is a United States shareholder, or a lower tier entity of either such corporation, which is a partner in such partnership, and

“(3) to prevent the abuse of this section.

“(m) TERMINATION.—No credit shall be allowed under this section with respect to any taxable year beginning after December 31, 2015.”.

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 55(e)(1) of such Code is amended by striking “27(b), and” and inserting “27(b),” and by inserting before the period at the end the following: “, and the Sub-Saharan Africa economic activity credit under section 30D”.
(2) Section 56(g)(4)(C)(ii)(I) of such Code is amended by inserting “30D,” after “30A,”.

(3) Section 56(g)(4)(C)(iii)(VI) of such Code is amended by inserting before the period at the end “and, notwithstanding section 30D(i), shall not be treated as including references to section 30D”.

(4) Section 59(b) of such Code is amended by inserting “, 30D,” after “30A” each place it appears in the heading and text.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code (relat-
ing to other credits) is amended by adding at the end the following new item:

“Sec. 30D. Sub-Saharan Africa economic activity credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM

SEC. 201. LIMITATIONS ON WAIVERS OF COMPETITIVE NEED LIMITATION.


(1) by striking “The President” and inserting “(i) The President”;
(2) by striking “(i) had” and inserting “(I) had” and by striking “(ii) had” and inserting “(II) had”; and

(3) by adding at the end the following new clauses:

“(ii) Beginning on January 1, 2007, the President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article of a beneficiary developing country entered during any calendar year if the President determines that the aggregate appraised value of the article of the country that entered duty-free under this title during the preceding calendar year exceeded $1,500,000,000.

“(iii) Beginning on January 1, 2007, the President may not exercise the waiver authority provided under this subsection with respect to a quantity of any eligible article of a beneficiary developing country entered during any calendar year if the President determines that the per capita gross national income (GNI) of the country during the preceding calendar year exceeded $3,400.”.
SEC. 202. EXTENSION OF GSP PROGRAM.


TITLE III—HAITI

SEC. 301. SHORT TITLE.

This Act may be cited as the “Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006”.

SEC. 302. TRADE BENEFITS FOR HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

“SEC. 213A. SPECIAL RULES FOR HAITI.

“(a) DEFINITIONS.—In this section:

“(1) APPLICABLE 1-YEAR PERIOD.—

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

“(B) INITIAL APPLICABLE 1-YEAR PERIOD.—The term ‘initial applicable 1-year period’ means the 1-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.
“(C) **SECOND APPLICABLE 1-YEAR PERIOD.**—The term ‘second applicable 1-year period’ means the 1-year period beginning on the day after the last day of the initial applicable 1-year period.

“(D) **THIRD APPLICABLE 1-YEAR PERIOD.**—The term ‘third applicable 1-year period’ means the 1-year period beginning on the day after the last day of the second applicable 1-year period.

“(E) **FOURTH APPLICABLE 1-YEAR PERIOD.**—The term ‘fourth applicable 1-year period’ means the 1-year period beginning on the day after the last day of the third applicable 1-year period.

“(F) **FIFTH APPLICABLE 1-YEAR PERIOD.**—The term ‘fifth applicable 1-year period’ means the 1-year period beginning on the day after the last day of the fourth applicable 1-year period.

“(2) **ENTER; ENTRY.**—The terms ‘enter’ and ‘entry’ refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

“(b) **APPAREL ARTICLES.**—
“(1) IN GENERAL.—In addition to any other preferential treatment under this title, apparel articles described in paragraph (2) of a producer or entity controlling production that are imported directly from Haiti shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in paragraphs (2) and (3), if Haiti has met the requirements of subsections (d) and (e).

“(2) APPAREL ARTICLES DESCRIBED.—

“(A) FOR INITIAL APPLICABLE 1-YEAR PERIOD.—Apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, that are entered during the initial applicable 1-year period.

“(B) FOR OTHER APPLICABLE 1-YEAR PERIODS.—

“(i) IN GENERAL.—In each of the second, third, fourth, and fifth applicable 1-year periods, apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fab-
ric components, components knit-to-shape, and yarns, only if, for each entry in the preceding applicable 1-year period, the sum of—

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

“(II) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or one or more countries described in subparagraph (C), or any combination thereof,

is not less than the applicable percentage (as defined in subparagraph (E)(i)) of the declared customs value of such apparel articles.

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

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

“(C) COUNTRIES DESCRIBED.—The coun-
tries referred to in subparagraph (B) are the
following:

“(i) The United States.

“(ii) Any country that is a party to a
free trade agreement with the United
States that is in effect on the date of the
enactment of the Haitian Hemispheric Op-
portunity through Partnership Encourage-
ment Act of 2006, or that enters into force
under the Bipartisan Trade Promotion Au-
thority Act of 2002 (19 U.S.C. 3801 et
seq.).

“(iii) Any country designated as a
beneficiary country under section
213(b)(5)(B) of this Act.

“(iv) Any country designated as a
beneficiary country under section
506A(a)(1) of the Trade Act of 1974 (19
U.S.C. 2466a(a)(1)), if a finding has been
made by the President or the President’s
designee, and published in the Federal
Register, that the country has satisfied the requirements of section 113 of the African Growth and Opportunity Act (19 U.S.C. 3722).

“(v) Any country designated as a beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)).

“(D) ANNUAL AGGREGATION.—

“(i) AGGREGATION.—The requirements under subparagraph (B) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during an applicable 1-year period by aggregating—

“(I) the cost or value of materials under clause (i)(I) of subparagraph (B), and

“(II) the direct costs of processing operations under clause (i)(II) of subparagraph (B),

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

“(ii) **DEDUCTIONS.**—In calculating cost or value under clause (i)(I), there shall be deducted the cost or value of—

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

“(II) any foreign materials that are used in the production of the materials described in clause (i)(I).

“(iii) **INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.**—(I) The entry of a woven apparel article receiving preferential treatment under paragraph (4) is not included in an annual aggregation under clause (i).

“(II) Entries of articles receiving preferential treatment under paragraph (5) are not included in an annual aggregation under clause (i) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is
made, to include such entries in such aggregation.

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

“(E) DEFINITIONS.—In this paragraph:

“(i) APPLICABLE PERCENTAGE.—The term “applicable percentage” means—

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

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

“(III) 60 percent or more during the fifth applicable 1-year period.
“(ii) FOREIGN MATERIAL.—The term ‘foreign material’ means a material produced in a country other than Haiti or any country described in subparagraph (C).

“(F) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—

“(i) IN GENERAL.—The Bureau of Customs and Border Protection of the Department of Homeland Security shall develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in subparagraphs (B) and (D).

“(ii) NONCOMPLIANCE.—If the Bureau of Customs and Border Protection finds that a producer or an entity controlling production has not satisfied such requirements in any applicable 1-year period, then apparel articles described in subparagraph (B) of that producer or entity shall be ineligible for preferential treatment under paragraph (1) during any succeeding applicable 1-year period until—
“(I) the cost or value of materials under subclause (I) of subparagraph (B)(i), plus

“(II) the direct costs of processing operations under subclause (II) of subparagraph (B)(i),

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

“(iii) RETROACTIVE APPLICATION OF DUTY-FREE TREATMENT.—If—

“(I) a producer or an entity controlling production is ineligible for preferential treatment under paragraph (1) in an applicable 1-year period because that producer or entity controlling production did not satisfy the requirements of subparagraph (B) or (D), and
“(II) that producer or entity controlling production satisfies the requirements of clause (ii) of this subparagraph in that applicable 1-year period,
then, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Bureau of Customs and Border Protection before the 90th day after the Bureau of Customs and Border Protection determines that subclause (II) applies, the entry of any articles—
“(aa) that was made during that applicable 1-year period, and
“(bb) with respect to which there would have been preferential treatment under paragraph (1) if the producer or entity controlling production had satisfied the requirements in subparagraph (B) or (D) (as the case may be),
shall be liquidated or reliquidated as though such preferential treatment under paragraph (1) applied to such entry.
“(G) Fabrics not available in commercial quantities.—

“(i) In general.—For purposes of determining the applicable percentage under subparagraph (B) or (D), there may be included in that percentage—

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

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

“(aa) section 213(b)(2)(A)(v) of this Act,

“(bb) section 112(b)(5) of the African Growth and Opportunity Act,

“(cc) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act, or
“(dd) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement that enters into force under the Bipartisan Trade Promotion Authority Act of 2002,

without regard to the source of the fabrics or yarns.

“(ii) Removal of designation of fabrics or yarns not available in commercial quantities.—If the President determines that—

“(I) any fabric or yarn described in clause (i)(I) was determined to be eligible for preferential treatment, or

“(II) any fabric or yarn described in clause (i)(II) was designated as not being available in commercial quantities,

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

“(3) QUANTITATIVE LIMITATIONS.—The prefer-
ential treatment described in paragraph (1) shall
be extended, during each of the applicable 1-year pe-
riods set forth in the following table, to not more
than the corresponding percentage of the aggregate
square meter equivalents of all apparel articles im-
ported into the United States in the most recent 12-
month period for which data are available:

<table>
<thead>
<tr>
<th>The corresponding percentage is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>“During the:”</td>
</tr>
<tr>
<td>---------------------------------</td>
</tr>
<tr>
<td>Initial applicable 1-year period ................................................ 1 percent</td>
</tr>
<tr>
<td>Second applicable 1-year period ............................................... 1.25 percent</td>
</tr>
<tr>
<td>Third applicable 1-year period ................................................. 1.5 percent</td>
</tr>
<tr>
<td>Fourth applicable 1-year period ............................................... 1.75 percent</td>
</tr>
<tr>
<td>Fifth applicable 1-year period .................................................. 2 percent.</td>
</tr>
</tbody>
</table>

No preferential treatment shall be provided under
paragraph (1) after the last day of the fifth applica-
ble 1-year period.

“(4) SPECIAL RULE FOR WOVEN APPAREL.—In
the case of apparel articles classifiable under chapter
62 of the HTS (other than articles classifiable under
subheading 6212.10 of the HTS), as in effect on the
date of the enactment of the Haitian Hemispheric
Opportunity through Partnership Encouragement
Act of 2006, that do not qualify for preferential
treatment under paragraph (1) because they do not
meet the percentage requirements under paragraph
(2)(B) or (2)(D), the preferential treatment under paragraph (1)—

“(A) shall be extended, in addition to the quantities permitted under paragraph (3) to—

“(i) not more than 50,000,000 square meter equivalents of such apparel articles for the initial applicable 1-year period;

“(ii) not more than 50,000,000 square meter equivalents of such apparel articles for the second applicable 1-year period; and

“(iii) not more than 33,500,000 square meter equivalents for the third applicable 1-year period; and

“(B) may not be extended to such apparel articles after the last day of the third applicable 1-year period.

“(5) SPECIAL RULE FOR BRASSIERES.—The preferential treatment under paragraph (1) shall, subject to the limitations under paragraph (3), be extended to any article classifiable under heading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in Haiti or the United States, or both, without regard to the source of the fabric or components from which the article is made,
and if Haiti has met the requirements of subsections (d) and (e).

“(c) SPECIAL RULE FOR CERTAIN WIRE HARNESS AUTOMOTIVE COMPONENTS.—

(1) IN GENERAL.—Any wire harness automotive component that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States shall enter the United States free of duty, during the 5-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, if Haiti has met the requirements of subsection (d) and if the sum of—

“(A) the cost or value of the materials produced in Haiti or one or more countries described in subsection (b)(2)(C), or any combination thereof, plus

“(B) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or the United States, or both, is not less than 50 percent of the declared customs value of such wire harness automotive component.

“(2) WIRE HARNESS AUTOMOTIVE COMPONENT.—For purposes of this subsection, the term
“wire harness automotive component” means any article provided for in subheading 8544.30.00 of the HTS, as in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

“(d) ELIGIBILITY REQUIREMENTS.—

“(1) IN GENERAL.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti—

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

“(i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

“(ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

“(iii) the elimination of barriers to United States trade and investment, including by—
“(I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

“(II) the protection of intellectual property; and

“(III) the resolution of bilateral trade and investment disputes;

“(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

“(v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

“(vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory
labor, a minimum age for the employment
of children, and acceptable conditions of
work with respect to minimum wages,
hours of work, and occupational safety and
health;

“(B) does not engage in activities that un-
dermine United States national security or for-
eign policy interests; and

“(C) does not engage in gross violations of
internationally recognized human rights or pro-
vide support for acts of international terrorism
and cooperates in international efforts to elimi-
nate human rights violations and terrorist ac-
tivities.

“(2) **TIME LIMIT FOR DETERMINATION.**—The
President shall determine whether Haiti meets the
requirements of paragraph (1) not later than 90
days after the date of the enactment of the Haitian
Hemispheric Opportunity through Partnership En-
couragement Act of 2006.

“(3) **CONTINUING COMPLIANCE.**—If the Presi-
dent determines that Haiti is not making continual
progress in meeting the requirements described in
paragraph (1)(A), the President shall terminate the
preferential treatment under this section.
“(e) Conditions Regarding Enforcement of Circumvention.—

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

“A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

“B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

“(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.
“(D) Haiti agrees to cooperate fully with
the United States to address and take action
necessary to prevent circumvention as provided
in Article 5 of the Agreement on Textiles and
Clothing.

“(E) Haiti agrees to require all producers
and exporters of articles described in subsection
(b) in that country to maintain complete
records of the production and the export of
such articles, including materials used in the
production, for at least 5 years after the pro-
duction or export (as the case may be).

“(F) Haiti agrees to report, on a timely
basis, at the request of the Bureau of Customs
and Border Protection, documentation estab-
lishing the country of origin of articles de-
scribed in subsection (b) as used by that coun-
try in implementing an effective visa system.

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

“(f) REGULATIONS.—The President shall issue regu-
lations to carry out this section not later than 180 days
after the date of the enactment of the Haitian Hemi-
spheric Opportunity through Partnership Encouragement
Act of 2006. The President shall consult with the Com-
mittee on Ways and Means of the House of Representa-
tives and the Committee on Finance of the Senate in pre-
paring such regulations.”.

SEC. 303. ITC STUDY.

The International Trade Commission shall, not later
than 18 months after the date of the enactment of this
Act, submit a report to Congress on the effects of the
amendments made by this Act on the trade markets and
industries, involving textile and apparel articles, of Haiti,
the countries described in clauses (ii) and (iii) of section
213A(b)(2)(C) of the Caribbean Basin Economic Recovery
Act (as added by section 302 of this Act), and the United
States.
SEC. 304. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), the Bureau of Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as added by section 302 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from Haiti.

SEC. 305. TECHNICAL AMENDMENTS.

(a) CBI.—Section 213(b)(2)(A)(v) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)(v)) is amended by adding at the end the following new subclause:

“(III) If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under subclause (I) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with re-
spect to articles entered after such re-
moval.”.

(b) ATPA.—Section 204(b)(3)(B) of the Andean
Trade Preference Act (19 U.S.C. 3202(b)(3)(B)) is
amended by adding at the end the following new clause:

“(viii) Removal of designation of
fabric or yarns not available in
commercial quantities.—If the Presi-
dent determines that any fabric or yarn
was determined to be eligible for pre-
ferential treatment under clause (i)(III) or
(ii) on the basis of fraud, the President is
authorized to remove that designation from
that fabric or yarn with respect to articles
entered after such removal.”.

SEC. 306. EFFECTIVE DATE.

This title and the amendments made by this title
apply to articles entered, or withdrawn from warehouse
for consumption, on or after the 15th day after the date
of the enactment of this Act.