

**STATEMENT ON HOW
THE DOMINICAN REPUBLIC – CENTRAL AMERICA – UNITED STATES
FREE TRADE AGREEMENT
MAKES PROGRESS IN ACHIEVING
U.S. PURPOSES, POLICIES, OBJECTIVES, AND PRIORITIES**

A. INTRODUCTION

The Dominican Republic – Central America – United States Free Trade Agreement (“Agreement”) makes progress in achieving the applicable purposes, policies, objectives, and priorities of the Bipartisan Trade Promotion Authority Act of 2002 (“TPA Act”). This Statement describes how and to what extent the applicable purposes, policies, objectives, and priorities are achieved through the Agreement.

The Agreement represents an historic development in our relations with Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua (“Central America”) and the Dominican Republic. The Agreement reflects a commitment on the part of the United States to sustained engagement in support of democracy, peaceful regional integration, and economic growth and opportunity in a region where several countries only recently transitioned from civil war to peaceful, democratic societies.

The Agreement will create significant new opportunities for American workers, farmers, businesses, and consumers by eliminating barriers to trade with Central America and the Dominican Republic. As detailed below, approximately 80 percent of U.S. exports of consumer and industrial goods will become duty-free immediately upon entry into force of the Agreement, with duties on other industrial and consumer goods eliminated over ten years. In particular, trade in nearly all textile and apparel goods meeting the Agreement’s origin requirements will become duty-free immediately, providing new opportunities for U.S. fiber, yarn, fabric, and apparel exporters. Other key sectors that will benefit from duty elimination under the Agreement are information technology products, agricultural and construction equipment, paper products, chemicals, and medical and scientific equipment.

Furthermore, Central America and the Dominican Republic will provide immediate duty-free access to more than half of all U.S. agricultural exports to the region. Certain agricultural goods will have longer periods for duty elimination (up to 20 years), or will be subject to other provisions, including, in some cases, the application of preferential tariff-rate quotas (“TRQs”) during the transition period. The Agreement addresses duty treatment for imports of sensitive agricultural products into the United States through transition periods (up to 20 years) and the use of TRQs.

The Central American countries and the Dominican Republic will substantially reduce barriers to trade in services, including financial services. The Agreement also includes state-of-the-art provisions in such key areas as intellectual property rights, electronic commerce,

telecommunications, customs and trade facilitation, dispute settlement, and labor and environmental protection.

The Agreement responds to Congress' direction, as expressed in the Caribbean Basin Trade Partnership Act, to conclude comprehensive, mutually advantageous trade agreements with beneficiary countries of the Caribbean Basin Initiative ("CBI") trade preference program. Since 1985, our trade relationship with Central America and the Dominican Republic has been driven by the unilateral trade preferences that the United States provides through the CBI program. This program has contributed to economic development and helped to alleviate poverty in the region. By moving from unilateral trade preferences to a reciprocal free trade agreement, we will build on the success of the CBI program by advancing economic development in the region through trade, as well as expanding U.S. access to markets in Central America and the Dominican Republic.

The Agreement forms an integral part of the Administration's larger strategy of opening markets around the world through negotiating and concluding global, regional, and bilateral trade initiatives. The Agreement provides the opportunity to strengthen our economic and political ties with the region, and underpins U.S. support for democracy and fundamental values, such as respect for internationally recognized worker rights and the elimination of the worst forms of child labor. The Agreement will also contribute to hemispheric integration and provide an impetus toward establishing the *Free Trade Area of the Americas*.

The Agreement meets or exceeds the applicable purposes, policies, objectives, and priorities that the Congress spelled out in the TPA Act. Accordingly, the President strongly believes that the Congress should approve the Agreement and enact the legislation needed to implement the Agreement.

B. OVERALL TRADE NEGOTIATING OBJECTIVES

The TPA Act sets out a variety of "overall trade negotiating objectives" that call for future U.S. trade agreements to: (1) open markets by eliminating or reducing barriers to and distortions of trade and creating market opportunities, in particular for small businesses; (2) further strengthen international trading disciplines; (3) foster economic growth in the United States and globally; and (4) promote environmental and worker rights policies in the context of trade. The Agreement builds on the foundation of existing trade agreements to make substantial progress in achieving each of these objectives.

1. Market Opening

The Agreement is comprehensive in scope. Each Party has agreed to liberalize trade in all goods, and to make significant market openings in services and government procurement.

Consumer/Industrial Goods. More than 80 percent of U.S. exports of consumer and industrial goods will enter Central America and the Dominican Republic duty-free when the

Agreement enters into force, with remaining tariffs phased out over ten years. Average tariffs on these items in Central America and the Dominican Republic currently range from 4.1 percent to 7.8 percent, and tariffs on some products of export interest to U.S. firms are as high as 25 percent.

Textiles and Apparel. Nearly all trade in textile and apparel goods that satisfy the Agreement's rules of origin will be duty-free immediately. Moreover, duty elimination for textile and apparel goods may, on a reciprocal basis, be made retroactive to January 1, 2004. The Agreement also allows, if certain conditions are met, for the use of Canadian and Mexican materials as inputs in the production of textile or apparel goods, thereby contributing to the development of stronger, more integrated regional industries.

Agriculture. The Central American countries and the Dominican Republic currently maintain high tariffs on U.S. agricultural goods. The simple average tariff that these countries apply to imports of agricultural products from the United States exceeds 11 percent, and, on certain import-sensitive products, can exceed 150 percent. The average bound tariffs on agricultural products for these countries under their World Trade Organization ("WTO") commitments range from 35 percent in Honduras to 60 percent in Nicaragua. In contrast, the U.S. market is already largely open (through our unilateral preference programs) to agricultural imports from Central America and the Dominican Republic. Under the Agreement, over half of all U.S. agricultural exports to the region will be duty-free when the Agreement enters into force, including on important export interests such as prime and choice cuts of beef, soybeans, wheat, cotton, apples, peaches, pears, grapes, cherries, almonds, walnuts, pistachios, raisins, canned peaches and pears, frozen concentrated grapefruit juice, and frozen concentrated orange juice (except to the Dominican Republic). Tariffs on most other U.S. goods will be phased out within 15 years. For the most sensitive agricultural goods, tariffs will be eliminated over periods ranging from 15 to 20 years. For these goods, liberalization will be achieved through TRQs that will increase over time. Over-quota tariffs will be eliminated during the 15-20-year transition period on all such import-sensitive products with the exception of white corn (El Salvador, Guatemala, Honduras, and Nicaragua) and onions and potatoes (Costa Rica). (The United States will maintain its over-quota tariffs on sugar.)

Services/Financial Services/Telecommunications. The Agreement provides additional market opening in a broad range of service sectors, including express mail delivery, construction and engineering, computer and related services, advertising, professional services, distribution services, insurance, banking, and other financial services, and telecommunications.

Government Procurement. The Agreement opens the Central American and Dominican Republic government procurement markets to U.S. suppliers for the first time on transparent and non-discriminatory terms. As the Central American countries and the Dominican Republic are not signatories to the WTO Agreement on Government Procurement, this constitutes a major benefit of the Agreement.

2. Stronger International Trade Disciplines

The Agreement includes innovative commitments to promote trade in digital products such as software, music, images, videos, and text. It draws from traditional trade principles to fashion customized nondiscrimination rules that will apply specifically to electronic commerce. The Parties will not impose tariffs on digital products that are delivered over the Internet.

The Parties recognize that workers and firms can fully realize the Agreement's market-opening potential only if the Agreement builds on the disciplines that proceed from those currently in place through other agreements. Thus, the Agreement sets out rules on intellectual property rights ("IPR") that clarify and build on those in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement) and provide for implementation of more recent World Intellectual Property Organization ("WIPO") treaties on protection of copyright and rights of performers and producers to strengthen enforcement and enhance rules protecting IPR.

The Agreement also includes detailed rules governing telecommunications services, under which the Parties will apply market-opening disciplines that extend beyond those in effect under the WTO. In addition, the Agreement contains innovative procedures for settling disputes that may arise under the Agreement, including provisions for monetary assessments to back up dispute panel decisions.

3. Foster Economic Growth

According to an independent study using the Michigan Model of World Production and Trade (Michigan model) to estimate certain economic effects of various free trade agreements, the Agreement will boost annual net global welfare by \$15.7 billion when fully implemented. In absolute terms, a positive welfare effect will be enjoyed by the United States (\$17.3 billion, or 0.17 percent of GNP) and by Central America and the Dominican Republic collectively (\$5.3 billion, or 4.4 percent of GNP). Formal models, such as the Michigan model, however, tend to underestimate the benefits of free trade agreements because their scope is limited (*e.g.*, they fail to assess the impact of rules changes such as improved IPR protection and group many industries and products into a limited number of categories for analysis) and because not all the expected effects of the Agreement are necessarily measured (*e.g.*, they fail to estimate or fully estimate dynamic or intermediate growth gains from trade liberalization). It is clear, however, that the Agreement will make a positive contribution to U.S. economic welfare and the expansion of global trade.

4. Labor Rights and Environmental Protection

Trade agreements can, and should, complement efforts to protect worker rights and enhance environmental protection. Accordingly, the Agreement includes meaningful commitments by each country on labor and environmental protection.

Each of the Parties reaffirms through the Agreement its obligations as a member of the International Labor Organization (“ILO”) and commitments under the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*. The Agreement contains a binding commitment that each Party not fail to effectively enforce domestic labor laws, while recognizing each Party’s right to establish its own labor laws, exercise discretion in investigatory, regulatory, prosecutorial, and compliance matters, and allocate enforcement resources. The Agreement also commits each Party to strive to ensure it does not waive or derogate from its domestic labor laws in a manner that weakens or reduces its adherence to internationally recognized labor rights as an encouragement for trade or investment with another Party. The Chapter also creates a labor cooperation and capacity building mechanism through which the Parties will work together to strengthen each Party’s institutional capacity to fulfill the goals of the Labor Chapter.

Similarly, the Agreement commits each country to ensure that its laws and policies provide for and encourage high levels of environmental protection and to strive to improve those laws and policies. As is the case for labor law enforcement, the Agreement contains a binding commitment that each Party not fail to effectively enforce its domestic environmental laws, while recognizing each Party’s right to establish its own environmental laws and exercise discretion in regulatory, prosecutorial, and compliance matters. The Agreement also includes language similar to that on labor rights that requires each country to strive to ensure it does not waive or derogate from its environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with another Party. Finally, the countries agree to cooperate on an ongoing basis regarding environment matters and have entered into a related Environmental Cooperation Agreement to facilitate such cooperation.

C. PRINCIPAL TRADE NEGOTIATING OBJECTIVES

The TPA Act establishes a variety of “principal trade negotiating objectives.” The Agreement makes substantial progress toward each of the applicable goals set out in the act.

1. Opening Markets for U.S. Goods

Under the Agreement, U.S. exporters will enjoy increased market opportunities and greater certainty regarding the terms for access to markets in Central America and the Dominican Republic. For example, in addition to cutting tariffs on agricultural goods, the United States and the other Parties will work together on sanitary and phytosanitary (“SPS”) matters, with a view to facilitating trade between the Parties, while appropriately protecting human, animal, and plant life and health. In addition, the Central American countries and the Dominican Republic are working toward the recognition of the U.S. meat inspection and certification systems in order to facilitate U.S. exports. The Parties will also enhance cooperation on technical regulations, standards, and conformity assessment procedures to prevent unnecessary technical barriers to trade (“TBT”) that hinder U.S. companies from taking advantage of open markets.

2. Opening Markets for U.S. Services

The Agreement will create new market opportunities in Central America and the Dominican Republic for a range of key U.S. services suppliers and will lock in access in sectors where their services markets are already open. The Agreement includes a market-opening services framework based in substantial part on a trade-liberalizing “negative list” approach. This means that all services sectors are subject to the Agreement’s rules unless a country has negotiated a specific exemption in that sector.

The Agreement will either open or lock in existing significant access to services markets in Central America and the Dominican Republic in such priority U.S. services export sectors as financial services, telecommunications, computer and related services, distribution services, professional services, advertising, audiovisual services, education and training, tourism, construction and engineering, energy services, and environmental services. The Agreement’s market-opening provisions are complemented by state-of-the-art rules governing regulatory transparency – rules that are especially important given the highly regulated nature of many services industries.

Under the Agreement, the Central American countries and the Dominican Republic will improve or lock in existing levels of access for U.S. suppliers in another key services market – express delivery. The Agreement includes an innovative, comprehensive definition of express delivery services that requires each Party to provide national treatment, most-favored-nation (“MFN”) treatment, and additional market access benefits to express delivery services of the other Parties. The Agreement also addresses the issue of postal monopolies directing revenues derived from monopoly postal services to confer an advantage on express delivery services.

Several of the Central American countries and the Dominican Republic also made commitments regarding their “dealer protection” regimes. Under existing “dealer protection” regimes, U.S. firms may be tied to exclusive or inefficient distributor arrangements. The commitments under the Agreement give U.S. firms and their Central American and Dominican Republic partners more freedom to contract the terms of their commercial relations and encourage the use of arbitration to resolve disputes between parties to dealer contracts.

3. Opening Markets for U.S. Investment

The Agreement commits the Central American countries and the Dominican Republic to provide a strong and predictable legal framework for U.S. investors, including direct ownership by U.S. firms of companies, real estate, intellectual property rights, concessions, permits, and debt instruments in those countries. Except for certain specified exceptions, the Agreement will give U.S. investors the opportunity to establish, acquire, and operate investments in the Central American countries and the Dominican Republic on the same basis as those countries’ own investors or other foreign investors – across the full spectrum of economic activity.

Under the Agreement, the Central American countries and the Dominican Republic will provide U.S. investors due process rights, and recourse in the event of expropriations, that are

consistent with U.S. legal principles and practice. For example, the Agreement includes protection against denials of justice in accordance with the principle of due process embodied in the principal legal systems of the world. The Agreement thus makes explicit that the treatment required by this obligation is grounded in, and does not extend beyond, the due process standards embraced by the United States and other major legal systems of the world.

With regard to recourse in the event of expropriations, the Agreement draws heavily from principles developed in U.S. takings law under the Fifth Amendment of the Constitution. The Agreement clarifies, for example, that takings are limited to property rights and property interests, not other types of interests, and incorporates tests used by the U.S. Supreme Court to determine whether a regulatory taking has occurred. The expropriation provisions also recognize that, as is the case in U.S. practice, nondiscriminatory regulatory actions designed and applied to protect legitimate public welfare objectives only rarely result in expropriation. While the Agreement commits the United States to continue to provide Central American and Dominican Republic investors a high level of protection and due process, it gives Central American and Dominican Republic firms no greater substantive rights than U.S. companies already enjoy in the United States.

The Agreement also commits the Central American countries and the Dominican Republic not to burden U.S. investors with protectionist “performance requirements” – such as rules requiring investors to buy local products – and ensures that the Central American countries and the Dominican Republic will allow U.S. investors to transfer funds related to their investments into and out of Central America and the Dominican Republic.

The Agreement provides a mechanism for an investor of a Party to pursue a claim against another Party. The investor may assert that the Party has breached a substantive obligation under the Investment Chapter or that the Party has breached an investment agreement with, or an investment authorization granted to, the investor or its investment. Innovative provisions afford public access to information on investor-State proceedings and ensure proper application of dispute settlement rules. For example, the Agreement requires the countries to make public key documents and hearings, with limited exceptions for business and other legally confidential information, and authorizes tribunals to accept *amicus* submissions from the public. The Agreement also includes provisions based on those used in U.S. courts to quickly dispose of frivolous claims.

Finally, the Agreement calls on the Parties, within three months of the date of entry into force of the Agreement, to initiate negotiations to develop an appellate body to review arbitral awards rendered by tribunals under the Investment Chapter.

4. Intellectual Property Rights

The Agreement clarifies and builds on existing international standards for the protection and enforcement of intellectual property rights, with an emphasis on new and emerging technologies. The Agreement ensures that the Central American countries and the Dominican

Republic will provide a high level of IPR protection, similar to that provided under U.S. law. Key provisions of the Agreement, such as those on preventing circumvention of anti-piracy devices and establishing the scope of liability for copying works on the Internet, are modeled on U.S. statutes.

The Agreement includes state-of-the-art protection for trademarks and copyrights as well as expanded protection for patents and undisclosed information.

The Agreement requires each Central American country and the Dominican Republic to accede to certain international Internet treaties and to extend its term of protection for copyrighted works. Under the Agreement, these countries will ensure that copyright owners maintain rights to temporary copies of their works, which is vital for protecting copyrighted music, videos, software, and text from widespread unauthorized sharing over the Internet. The Agreement requires each government to direct its agencies to use only legitimate computer software, thus setting a positive example for private users. To prevent piracy of satellite television broadcasts, the Agreement will also require the Central American countries and the Dominican Republic to protect encrypted satellite signals as well as the programming those signals carry.

The Agreement commits the Central American countries and the Dominican Republic to make patent rights available, with certain exceptions, for inventions and provides for the extension of patent terms in the event of unreasonable delays in issuing patents or granting regulatory approval for marketing patented products. The Agreement will also require these countries to protect test data and other information that pharmaceutical and agricultural chemical companies submit to government regulators in order to secure regulatory approval for their patented products. Under the Agreement, these countries will protect information generated in connection with pharmaceutical and agricultural chemical product approvals for five and ten years, respectively.

These standards are made more meaningful through requirements for tough enforcement measures and remedies to combat piracy and counterfeiting, including procedures in civil cases for seizure and destruction of pirated and counterfeit products, and the equipment used to produce these products. The Agreement also commits each Central American country and the Dominican Republic to ensure that its criminal law enforcement authorities are empowered to seize, forfeit, and destroy counterfeit and pirated goods and, at least with respect to pirated goods, the equipment used to produce them. Each country must also authorize its enforcement officials to act on their own against counterfeit and pirated goods, either by stopping them at the border or initiating criminal cases, without receiving a formal complaint, thus providing more effective enforcement against these products.

5. Transparency

The Parties recognize that without a high standard of regulatory transparency, the benefits of market-opening trade commitments can be lost through arbitrary or unfair

government regulations. Accordingly, the Agreement includes provisions that will ensure that each Party observes fundamental transparency principles. Those provisions are set out in a specific Chapter of the Agreement dealing with regulatory transparency as well as in provisions of the Agreement addressing customs administration, TBT, government procurement, investment, cross-border trade in services, financial services, telecommunications, and dispute settlement. The Agreement's principal transparency rules are based on U.S. practice under the Administrative Procedures Act.

Increased transparency is an effective tool in addressing government corruption in international trade. The Agreement contains innovative provisions on combating bribery and corruption. Under the Agreement, each country must adopt or maintain prohibitions on bribery in matters affecting international trade and investment, including bribery of foreign officials, and establish criminal penalties for such offenses. In addition, each country will strive to adopt appropriate measures to protect those who, in good faith, report acts of bribery. The Parties also will work jointly to encourage and support appropriate regional and multilateral initiatives to combat bribery and corruption.

6. Regulatory Practices

The Agreement addresses regulatory issues directly linked to the Agreement's market-opening provisions. This includes specific provisions in almost all Chapters, including those on customs administration, SPS, TBT, government procurement, cross-border trade in services, and telecommunications. In addition, the Agreement includes commitments on transparency, rights of appeal of administrative decisions, and access to information.

7. Electronic Commerce

Under the Agreement, the Parties must apply the principles of national treatment and MFN treatment to trade in electronically transmitted digital products (*e.g.*, computer programs, video, images, and sound recordings). The Agreement includes rules prohibiting duties on electronically transmitted digital products and limiting duties on digital products stored on a carrier medium to a duty based on the value of the carrier medium alone. In so doing, the Agreement creates a strong foundation for wider efforts to bar duties and discriminatory treatment of digital products.

8. Trade in Agricultural Products

The Agreement includes several provisions designed to eliminate barriers to trade in agricultural products, while providing reasonable adjustment periods, TRQs, and other mechanisms for producers of import-sensitive agricultural goods. In addition, the United States and the other Parties have agreed to work together toward a multilateral agreement in the WTO to eliminate export subsidies and prevent their reintroduction in any form.

Under the Agreement, each Party will eliminate export subsidies on agricultural goods destined for another Party. If a third country subsidizes exports to a Party, an exporting Party may initiate consultations with the importing Party to develop measures the importing Party may adopt to counteract such subsidies. If the importing Party agrees to such measures, the exporting Party must refrain from applying export subsidies to its exports of the good to the importing Party. If the importing Party does not agree to such measures, the exporting Party may provide an export subsidy on its exports of the good to the importing Party, but only to the extent necessary to counteract the trade-distorting effect of the subsidized imports from the third country.

The Agreement also includes a safeguard procedure for certain agricultural goods to aid domestic industries that face imports above a specified quantitative threshold for such goods.

9. Labor Rights and Environmental Protection

Under the Agreement, the Central American countries, the Dominican Republic, and the United States reaffirm their obligations as members of the ILO and will strive to ensure that their laws provide for labor standards that are consistent with internationally recognized labor rights, as set forth in the Agreement. The Agreement makes clear that it is inappropriate for a Party to waive or derogate from domestic labor laws in a manner that weakens or reduces adherence to internationally recognized labor rights as an encouragement for trade with another Party or investment in its territory by investors of another Party. A key element of the Agreement's labor provisions, which is enforceable through the Agreement's dispute settlement procedures, is a commitment by each country not to fail to effectively enforce its labor laws through a sustained or recurring course of action or inaction in a manner affecting trade between the Parties. The Agreement defines labor laws specifically to include those related to the prohibition and elimination of the worst forms of child labor. The Agreement also commits the Agreement countries to cooperate on labor issues, in part through the Labor Cooperation and Capacity Building Mechanism described in an annex to the Labor chapter.

Environmental commitments are also included in the core text of the Agreement. As is the case for labor rights, a key component of the Agreement's environmental provisions is an enforceable commitment by each country that it will not fail to effectively enforce its domestic environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade between the Parties. Under the Agreement, each Party also commits to ensure that its domestic laws and policies provide for and encourage high levels of environmental protection and to strive to continue to improve those laws and policies. Through the Agreement, the Parties expressly recognize that it is inappropriate to waive or derogate from their environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with another Party. In addition, the Agreement includes a public submissions mechanism that allows members of the public to raise concerns with an independent secretariat about a Party's enforcement of its environmental laws. In appropriate cases, the secretariat will develop a factual record related to the submission for consideration by the Agreement's Environmental Affairs Council. The Agreement also recognizes that the Parties

negotiated an Environmental Cooperation Agreement under which they have identified certain priority areas of environmental cooperation.

10. Dispute Settlement

The Agreement includes innovative procedures for settling disputes that may arise between the Parties over its implementation. The Agreement's dispute settlement procedures rely principally on consultations and compliance rather than on imposition of trade sanctions or penalties. The procedures set high standards of openness and transparency. The Agreement calls for dispute settlement proceedings to be open to the public, for the disputing Parties to release their legal briefs and other filings to the public (except for confidential information), and for dispute settlement panels to have the authority to receive submissions from interested non-governmental groups.

The Agreement's dispute settlement rules also provide that where a Party is found to be in violation of an obligation under the Agreement, the remedies available to the complaining Party will be equivalent for disputes involving commercial matters, on the one hand, and disputes involving labor or environmental matters, on the other. The FTA achieves this result through an enforcement mechanism that provides for the use of monetary assessments. That mechanism allows a prevailing country to suspend tariff benefits under the Agreement if the losing country fails to pay such an assessment, while bearing in mind the Agreement's objective of eliminating barriers to bilateral trade and while seeking to avoid unduly affecting parties or interests not party to the dispute.

Dispute settlement is available under the Agreement for labor or environmental disputes relating to each Party's obligation not to fail to effectively enforce its labor or environmental laws. If a panel determines that a Party has failed to effectively enforce its labor or environmental laws and the disputing Parties cannot agree on how to resolve the dispute, or the complaining Party believes that the defending Party has failed to implement an agreed resolution, the complaining Party may ask the panel to determine the amount of an annual monetary assessment to be imposed on the defending Party. The Panel will establish the amount of the assessment, subject to a \$15 million annual cap, taking into account relevant trade- and non-trade-related factors. The assessment will be paid into a fund for appropriate labor or environmental initiatives in the territory of the defending Party. If the defending Party fails to pay an assessment, the complaining Party may take other appropriate steps, which may include suspending tariff benefits, as necessary, to collect the assessment, while bearing in mind the Agreement's objective of eliminating barriers to trade and while seeking to avoid unduly affecting parties or interests not party to the dispute.

11. Trade Remedies

The Agreement includes a safeguard procedure, similar to the procedures in other U.S. free trade agreements, which will be available to aid domestic industries, in the unlikely event that an industry sustains or is threatened with serious injury due to increased imports resulting

from the reduction or elimination of U.S. import duties under the Agreement. The Agreement also includes a special safeguard to address the possibility that duty reduction or elimination under the Agreement could result in damaging levels of textile or apparel imports.

The Agreement does not affect U.S. rights to take safeguard actions under section 201 of the Trade Act of 1974, which implements the WTO Safeguards Agreement and the General Agreement on Tariffs and Trade (“GATT”) 1994. Under the Agreement, the President may, but is not required to, exempt imports of goods from Agreement countries from a WTO safeguard measure, if the goods are not a substantial cause of serious injury or threat thereof.

The Agreement provides that each country retains its rights and obligations under the WTO agreements relating to antidumping or countervailing duties. Thus, the Agreement does not affect U.S. rights and obligations regarding these trade remedies as they currently exist under the WTO. The United States agreed to maintain an advantage currently afforded to imports from the Central American countries and the Dominican Republic as a result of their status as beneficiary countries under the Caribbean Basin Economic Recovery Act (“CBERA”). Specifically, the United States agreed to continue to treat the other Agreement countries as CBERA beneficiary countries for purposes of Sections 771(7)(G)(ii)(III) and 771(7)(H) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(G)(ii)(III) and 1677(7)(H)), which preclude the U.S. International Trade Commission from aggregating (or “cumulating”) imports from CBERA beneficiary countries with imports from non-beneficiary countries in determining in antidumping and countervailing duty investigations whether imports of a particular product from such beneficiary countries are injuring or threaten to injure a U.S. industry.

D. PRIORITIES FOR MAINTAINING GLOBAL COMPETITIVENESS

The TPA Act also calls for the President to promote certain priorities to address and maintain U.S. competitiveness in the global economy. The Agreement makes progress in promoting each of these priorities.

1. Labor Cooperation

The United States, the Central American countries, and the Dominican Republic are members of the ILO. The United States has a longstanding cooperative relationship with each of these countries on labor issues. During the negotiations, government labor experts from the Agreement countries consulted on their labor laws and how their respective systems operate. The Agreement includes a labor cooperation and capacity building mechanism to promote respect for the principles embodied in the ILO *Declaration on Fundamental Principles and Rights at Work and its Follow-up* and compliance with ILO *Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*. The Agreement establishes a framework for the labor cooperation and capacity building mechanism and lists a range of labor activities on which the Parties will cooperate. Officials of the U.S. Department of Labor and the labor ministries of the other Parties and other appropriate agencies will participate in this mechanism.

2. Domestic Policy Objectives

The Agreement fully takes into account critical U.S. domestic policy objectives, such as the need to maintain flexibility in addressing U.S. national security and public health, safety, and consumer interests. The Agreement includes a broad set of general policy exceptions for measures governing trade in both goods and services to ensure that the United States remains fully free to safeguard the national and public interest, including specific exceptions for national security, public health and morals, conservation, taxation, and protection of confidential information. The Agreement also avoids disturbing existing state and local governmental measures that might run counter to the Agreement's services rules by including "grandfather" clauses that exempt those measures from challenge under the Agreement.

3. Multilateral Environmental Agreements and GATT Article XX

As noted in the Administration's environmental review of the Agreement, the environment and sustainable development are important concerns for both the United States and the other Agreement countries. The Agreement expressly recognizes the importance of multilateral environmental agreements ("MEAs"), including appropriate use of trade measures in such agreements to achieve specific environmental goals. The Agreement commits the Parties to consult regularly with respect to the ongoing negotiations in the WTO concerning the relationship between MEAs and WTO rules. In addition, the Environmental Cooperation Agreement negotiated in parallel with the Agreement will provide further opportunities for the seven governments to cooperate in promoting effective implementation of MEAs to which they are all party.

4. Currency and Exchange Rate Manipulation

Section 2102(c)(12) of the TPA Act states that "[i]n order to address and maintain United States competitiveness in the global economy, the President shall ... seek to establish

consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.”

The Cross-Border Trade in Services and Financial Services Chapters of the Agreement promote and protect the freer international movement of capital and consequently make it more difficult to manipulate exchange rates to achieve levels inconsistent with levels set by market forces.

The currency movements mentioned in section 2102(c)(12) can arise from many conditions, particularly from macroeconomic developments, macroeconomic policy changes or the appearance of new information on fundamental economic conditions. The determination of whether any such movement reflects currency manipulation to promote a competitive advantage in international trade must therefore take into account a broad range of issues, institutions and market developments which will require a review mechanism with a larger scope than any specific trade agreement.

The Secretary of the Treasury is required, under the Omnibus Trade and Competitiveness Act of 1988, to analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund (“IMF”), and to consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in international trade. Each member of the IMF is obligated, under Article IV of the IMF Articles of Agreement, to avoid manipulation of exchange rates for such purposes.

The Department of the Treasury will ensure that currency movements mentioned in Section 2102(c)(12) are examined in its analysis of exchange rate policies of foreign countries and in consultations with the IMF concerning these policies. The Department of the Treasury will seek to resolve problems of currencies that are considered to be manipulated in the sense of 2102(c)(12) through discussions with the foreign authorities responsible for foreign exchange rate policies.

5. Reporting Requirements

As required under the TPA Act, the Administration has provided a report to the Congress describing the laws of the Central American countries and the Dominican Republic governing exploitative child labor. In addition, the Administration has reported to the appropriate Congressional committees as required under the TPA Act on: (1) the Administration’s environmental review of the Agreement; and (2) its review of the Agreement’s impact on U.S. employment. The Administration has also provided a meaningful labor rights report on the Central American countries and the Dominican Republic, which will be made available to the public. Finally, the Administration has reported, as specified in the TPA Act, on U.S. efforts to establish consultative mechanisms to strengthen the Central American countries’ and the

Dominican Republic's capacity to promote respect for core labor standards and to develop and implement standards for the protection of human health based on sound science.