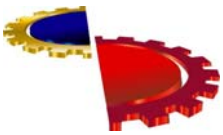

Secretaría de Estado de
Industria y Comercio

DR-CAFTA: COMMITMENTS UNDERTAKEN BY THE DOMINICAN REPUBLIC AND ACTIONS IT WILL HAVE TO TAKE IN ORDER TO TAKE FULL ADVANTAGE OF THE TREATY

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ACRONYMS

ADOZONA	*Asociación Dominicana de Zonas Francas* (Dominican Association of Free Trade Zones)
CARICOM	Caribbean Community and Common Market
CARIFORUM	Caribbean Forum (CARICOM plus the Dominican Republic)
CBI	Caribbean Basin Initiative
CBTPA	Caribbean Basin Trade Partnership Act
CEI-RD	Center for Exports and Investments of the Dominican Republic
CNC	Consejo Nacional de Competitividad
CNZF	*Consejo Nacional de Zonas Francas* (National Free Trade Zone Council)
DDP	Doha Development Program
DICOEX	*Dirección de Comercio Exterior y Administración de Tratados Comerciales Internacionales* (Directorate of Foreign Trade and Administration of International Trade Treaties)
DGA	*Dirección General de Aduanas* (General Directorate of Customs
DR	Dominican Republic
DR-CAFTA	U.S.-Central America-Dominican Republic Free Trade Agreement
ECA	Environmental Cooperation Agreement
ECC	Environmental Cooperation Commission
EU	European Union
FTAA	Free Trade Area of the Americas
GATS	General Agreement on Trade in Services
GSP	Generalized System of Preferences
ICSID	International Centre for Settlement of Investment Disputes
ITA	Information Technology Agreement
MERCOSUR	Southern Cone Common Market
MFN	Most Favored Nation
NAFTA	North American Free Trade Agreement
ONAPI	*Oficina Nacional de Propiedad Industrial* (National Industrial Property Office)
ONDA	*Oficina Nacional de Derecho de Autor* (National Copyright Office)
SEA	*Secretaría de Estado de Agricultura* (Ministry of Agriculture)
SECTUR	*Secretaría de Estado de Turismo* (Ministry of Tourism)
SEF	*Secretaría de Estado de Finanzas* (Ministry of Finance)
SEIC	*Secretaría de Estado de Industria y Comercio* (Ministry of Industry and Commerce)
SEMREN	*Secretaría de Estado de Medio Ambiente y Recursos Naturales* (Ministry of the Environment and Natural Resources)
SEREX	*Secretaría de Estado de Relaciones Exteriores* (Ministry of Foreign Relations)
SPM	Sanitary and Phytosanitary Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNEP	United Nations Environment Program
UASD	*Universidad Autónoma de Santo Domingo*) Autonomous University of Santo Domingo
UN	United Nations Organization
WTO	World Trade Organization

Executive Summary

EXECUTIVE SUMMARY

This study was funded by the United States Agency for International Development (USAID) under the Dominican Republic Competitiveness and Policy Program with the collaboration of the Dominican Ministry of Industry and Trade (SEIC) and the National Competitiveness Council (*Consejo Nacional de Competitividad* – CNC). This document identifies the commitments undertaken by the Dominican Republic by virtue of DR-CAFTA. These commitments are keyed to the Chapter of the Treaty in which they are mentioned, together with an indication of the institutions responsible for taking whatever steps are necessary to comply with those commitments. The commitments have also been listed by date, based on priorities. The objective is to facilitate for the Government of the Dominican Republic the identification of these commitments and priorities, so that it will be able to properly comply with them and take maximum advantage of DR-CAFTA.

Provided below are two summary tables. The first identifies actions to be taken in accordance with the specific chapter in the Treaty, together with the responsible institution, while the second shows the schedule of steps to be taken, listed by date.

Steps to be taken, listed by chapter and responsible institution

Chapter	Step	Institution
Chapter Three. Obligations relating to National Treatment and Market Access for Goods	1. Negotiators for the United States and the Dominican Republic reached an understanding that the Government of the Dominican Republic will take whatever steps are necessary to ensure that that country complies with the provisions of the WTO's Information Technology Agreement (ITA) in order to continue implementing, at a multilateral level, the elimination of tariffs on those products to which immediate duty-free admission was granted (basket A) under DR-CAFTA.	SEREX
	2. Given the importance of the free trade zone sector, the National Free Trade Zone Council, the Dominican Association of Free Trade Zones (ADOZONA) and the Ministry of Industry and Commerce (SEIC) should work toward modifying and improving Law 8-90, since the term established in the Agreement will expire on December 31.	CNZF, ADOZONA and SEIC
	3. The SEIC should advise the Directorate General of Customs (DGA) that these obligations do not allow precautionary restrictions to be applied to the importation of products by virtue of litigation currently underway within the framework of Law 173.	SEIC
	4. The Executive Branch should appoint the members of the Regulatory Commission on Unfair Trade Practices and Safeguard Measures created by Law 1-02. The National Congress should ratify those appointments and assign a budget for the operation of the Commission, as required by Chapter Eight of DR-CAFTA. Meanwhile, the SEIC will have responsibility in this regard during the transition period and it will accordingly need to be appropriately staffed to perform these functions.	EB, NC, SEIC, SEF and DGA
	5. The Ministry of Agriculture (SEA) and the SEIC and their component offices are responsible for administering the quota	SEA and SEIC

Chapter	Step	Institution
	mechanism established in the Treaty. These agencies should create a guide to the application and administration of the quotas listed in the Agreement, as well as their consistency with the commitments undertaken by virtue of the WTO Technical Rectification.	
	6. In negotiations carried out within the framework of the WTO, the United States has proposed the elimination of subsidies on agricultural exports. The Ministry of Foreign Relations (SEREX), through the DR's permanent mission to international organizations in Geneva and in consultation with the various sectors involved, will be required to design an appropriate strategy for complying with that objective during the Doha Round.	SEREX
	7. Responsibility for applying agricultural safeguard measures falls to the Ministry of Agriculture (SEA) and its component offices, which should create a set of regulations and organize their operations so as to comply this obligation. They should in addition coordinate their activities with those of the SEIC and the National Commission on Unfair Trade Practices in this regard.	SEA
	8. The Executive Branch should appoint the members of the Commission on Unfair Practices and assign to the Commission an appropriate budget.	PE
	9. No later than 90 days after the entry into force of the Treaty, the Parties are required to establish the Agriculture Trade Committee. National authorities should meet with the sectors involved to draw up an action plan for taking advantage of this mechanism […] immediately organize their participation.	SEA
	10. This Chapter establishes the obligation that, upon submission of a request by an importer, one Party must reimburse the other Party for any additional customs duties paid in connection with the importation into its territory of an originating textile or apparel good produced between January 1, 2004 and the entry into force of the Treaty. The Dominican Republic may opt out of this obligation by submitting a written notice to the other Parties no later than 90 days prior to the entry into force of the Treaty, indicating that it will not comply with the provisions of paragraph 1 of article 3.20. Another option would be for the Dominican Republic to advise, within the above-specified term, that it will provide a benefit for textile or apparel goods imported into its territory that both the importing and exporting parties have agreed is equivalent to the benefit stipulated in paragraph 1. The steps contemplated in this article will not be applied to a textile or apparel good that qualifies for preferential tariff treatment under articles 3.21, 3.27 or 3.28.	SEIC, SEF and DGA
	11. The DR should organize its trade remedies mechanism so that the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, which is the appropriate authority in this regard, will be able to carry out investigations and apply appropriate measures, with such procedures to be in compliance with the standards established by the WTO's Safeguard Agreement, as contained in the above-mentioned Law 1-02. These measures are applicable to the transition period. The party applying a textile safeguard measure must provide to the party against whose good the measure has been applied a mutually agreed upon trade liberalization compensation.	Regulatory Commission on Unfair Trade Practices and Safeguard Measures
	12. The DR's customs authorities should review and regularize their customs procedures so that they will be able to exercise the rights and fulfill the obligations set forth in this chapter; in addition, they should provide training to the appropriate personnel.	DGA
	13. **The Committee on Trade in Goods** (created in Chapter 3, section H, art. 3.30) has jurisdiction to consider any matter under Chapters Three, Four or Five of the Treaty, as well as to provide to the Committee on Trade Capacity Building	SEIC

Chapter	Step	Institution
	advisory assistance and recommendations regarding needs for technical assistance relating to the above-cited chapters. As the national Treaty coordination agency, the SEIC should develop an institutional coordination mechanism to deal with any matters falling within the area of responsibility of this committee; in addition, it would be advisable to identify cooperation projects for technical assistance. Steps should be taken to program the participation of the Committee and to maximize the benefits it provides.	
	14. It would be desirable for the SEIC and national authorities to analyze the matter of U.S. exceptions to its merchant marine law (Jones Act), in order to ensure that the exemption from payment of the 50% duty on expenses for repairing U.S. vessels in the Dominican Republic will be applied to the DR in the same manner as the treatment given to Mexico and other countries with which the United States has signed Free Trade Agreements. In addition, efforts should be made to ensure that U.S. authorities provide clarification to the Dominican Republic regarding the repair and rebuilding of vessels as provided by NAFTA. One additional possibility is to attempt to have the United States increase the flexibility of its exception by allowing the construction of certain types of vessels in the Dominican Republic without losing its rights under the Jones Act.	SEIC
	15. The Dominican Republic undertook the obligation to eliminate customs duties in accordance with the schedule attached to this Annex, based on the tariff elimination categories indicated therein. The SEIC and the SEF, working jointly with the DGA, should work to ensure appropriate monitoring, control and compliance with these provisions and take all necessary administrative steps and procedures toward this end.	SEIC, SEF and DGA
Chapter Four. Rules of Origin and Origin Procedures	1. The DGA should carry out a comprehensive program of training involving the Rules of Origin and Origin Procedures so that it will be able to be able to properly address such matters. Chapter IV explains the method for calculating the value of regional contents, as well as the value of materials and any adjustments.	DGA
	2. **Claims of Origin (article 4.16).** This article stipulates that an importer may make a claim for preferential tariff treatment based on either a written or electronic certification by the producer. The claim can also be based on the importer's knowledge, or reasonable belief based on information in the Party's possession, that the good is an originating good. This chapter establishes DGA obligations with respect to exports and record-keeping requirements, as well as with regard to verification of goods, which will be the responsibility of the authorities. In this regard, it will be necessary to strengthen and improve current procedures, bearing in mind in particular that the provisions of this article do not decrease the authority of customs officials to rule on matters submitted for their consideration, based on informed criteria supporting their decision.	DGA
	3. National authorities, the SEIC, the SEF, the DGA and other appropriate agencies should be prepared to establish a working mechanism with regard to these Common Guidelines, to be applicable to all of the countries (as stipulated in article 4.21), since the Treaty stipulates that the parties will make every effort to do so by the entry into force of the Treaty, and also with regard to the operating framework for conducting verifications of origin in accordance with article 4.20.1 (c). The obligations set forth in these chapters will require an overall updating of customs and trade facilitating procedures. Toward this end, national authorities should submit a modernization project either through the Committee on Trade Capacity Building or within the framework of cooperation programs offered by multilateral agencies and organizations.	DGA
Chapter Five. *Customs*	1. The Dominican Republic should publish, including on the Internet, its customs legislation, regulations and procedures. This is a permanent and ongoing obligation during the life of the Treaty, and the DR should in addition designate or	SEIC and DGA

Chapter	Step	Institution
Administration and Trade Facilitation.	maintain one or more points of consultation for addressing customs concerns. Working jointly with the DGA, the SEIC should implement an appropriate action plan in this regard. 2. Working in collaboration with the DGA and appropriate agencies and sectors, the SEIC should implement an action plan for complying with the provisions of article 5.7 regarding expedited customs procedures for express shipments, including a separate procedure for other types of shipments. 3. **Advance Ruling (article 5.10).** The customs authority or other appropriate authority should issue an advance ruling within a period of 150 days following submission of a request, provided that the requesting party has provided all requisite information. The DGA should take note of these provisions in order to ensure their proper implementation. 4. The SEIC, working jointly with the cabinet, should prepare for the identification of initial priorities regarding the creation of capacities for the Working Group on Customs Administration and Trade Facilitation, which reports to the Committee on Trade Capacity Building.	SEIC and DGA DGA SEIC and DGA
Chapter Six. *Affirmation of the SPF Agreement*	1. The SEIC should coordinate an interdisciplinary working group for the creation of the Committee on Sanitary and Phytosanitary Matters. The appropriate authorities should exchange letters in which they identify their principal representatives to the Committee […] the effects of the creation of the Committee, and in addition work to establish the terms of reference for the Committee. Efforts should be intensified to update national legislation and regulations in this area and to improve their implementing regulations. At the same time, the effectiveness and transparency of the National Animal and Plant Health System should be enhanced.	SEIC
Chapter Seven. *Technical Barriers to Trade*	1. A Committee on Technical Barriers to Trade was created, and its functions of monitoring, improving and facilitating cooperation, and exchanging information, consultations, review or consideration of any other issue submitted to it by the parties, were specified in this article. The Dominican Republic designated the Directorate of Foreign Trade and Administration of International Trade Treaties (DICOEX), an agency of the SEIC, to participate in coordinating [the activities of] this committee.	SEIC
Chapter Eight. *Trade Remedies*	1. The safeguard procedures laid out in this chapter, like those of the WTO, require the existence of an appropriate national investigative authority to direct the process of investigating and determining damages and applying safeguard measures. In addition, to the extent provided in national legislation, the rulings of such an authority should be subject to review by the administrative court system. Annex 8.7 identifies the appropriate investigative authorities. In the case of the Dominican Republic, this authority is the Regulatory Commission for Unfair Trade Practices and Safeguard Measures. This Commission was created by Law 1-02, in 2002. Decree 184, issued in May of 2002, designated a temporary commission for that purpose, to be chaired by the SEIC. Article 8.3.3 stipulates that the appropriate authority, properly authorized by national legislation to carry out such procedures, must be provided with the resources necessary to facilitate compliance with its functions. Accordingly, the Executive Branch should rule on this currently existing temporary situation in view of the fact that the Regulatory Commission on Unfair Trade Practices and Safeguard Measures has already been appointed, for purposes of the Treaty.	Regulatory Commission on Unfair Trade Practices and [Safeguard] Measures
Chapter Nine. *Government Procurement*	1. Regulations and forms should be prepared based on the required procedures listed in the Treaty. In addition, it will be necessary to respect the thresholds, terms, [and] publications established with respect to this chapter, as well as to coordinate with covered institutions as regards processes so that Common Guidelines can be issued. Technical cooperation aimed at modernizing the country's government procurement procedures will also have to be requested. The procurement and purchasing departments of the various state institutions covered should be the subject of a comprehensive program of staff training and technological updating. This chapter has special importance in addition as regards the commitments undertaken by the Dominican Republic under the Inter-American Convention on Corruption,	SEF and other affected institutions

Chapter	Step	Institution
	which requires that procedures for government procurement of goods and services be carried out with the greatest possible degree of transparency.	
Chapter Ten. Investment	**1.** Although there is no obligation for the DR to adhere to or ratify the ICSID Agreement, national authorities should evaluate the merits of ratifying that Agreement. The Dominican Republic has ratified the Inter-American Convention on International Trade Arbitration, which took place in Panama on January 30, 1975, as well as the United Nations Convention on the Recognition and Execution of Foreign Arbitration Rulings, also known as the New York Convention, which was signed in New York on June 10, 1958. Inasmuch as arbitration is a mechanism included among the methods for settling disputes not only under this Treaty but also under other instruments ratified by the Dominican Republic, national authorities should develop a program to take advantage of technical assistance available on this topic.	National Authorities
Chapter Eleven. *Cross-Border Trade in Services*	1. **Mutual Recognition.** For purposes of compliance, either wholly or in part, with its regulations or with criteria for authorizing or certifying or licensing service providers, and subject to the stipulations set forth in paragraph 4, one Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country, including a Party or non-Party to the Treaty. Through the Autonomous University of Santo Domingo (UASD), the Ministry of Higher Education and associations of professionals, the Dominican Republic should: list, describe in detail and render transparent all steps involved in the revalidation of university degrees for purposes of practicing in a given professional field in the DR.	UASD, SEIC, SEES and Associations of Professionals
Annex 11.13. Specific Commitments. Section B. Dominican Republic	**2. Transparency.** Article 11.7 does not [sic] stipulate that the DR will have to maintain an information mechanism among the parties, rendering transparent all measures and regulations having to do with trade. In addition to granting a reasonable period of time between notification and the entry into force of any such measures, in order to allow any of the parties to submit inquiries in this regard the SEIC should create a mechanism, in coordination with all government agencies, to provide for consultation and [ensure] the transparency of such measures.	SEIC
	3. As soon as possible, the Dominican Republic should prepare regulations to govern application of the commitments undertaken in the Agreement regarding Law 173, Representation of Foreign Firms. Although a draft set of regulations that would give such regulations the force of law has already been submitted, it would be prudent to analyze the various aspects of these draft regulations so that they will not conflict with the commitments undertaken in this Treaty.	
Annex I Tourism	4. In Annex I, the Dominican Republic specified exceptions, based on national legislation, with regard to certain measures included in the Treaty. These laws include the Tourism Institutional Law, No. 541; the Regulations Governing Land Transportation of Tourists, No. 817-03; and the Decree authorizing the establishment of Casinos, Bingo Games and Slot Machines, No. 6273.	
	5. The DR is currently experiencing difficulties with the implementation of the Tourism Institutional Law. Since it is the subject of an exception under the Treaty, it will be necessary to create mechanisms to facilitate compliance, particularly with regard to Law 541, regarding representation of foreign travel agencies and tour operators and the nationality of workers in the sectors covered by the law and its implementing regulations.	
Maritime Transportation	**6.** Exceptions were also made for the Law Governing the Port and Coastal Police, No. 3003; the Law Governing the Protection and Development of the Merchant Marine, No. 180; and the Decree Establishing the Schedule of Fees for the Dominican Port Authority, No. 572-99. The DR should review the Merchant Marine Law No. 180 of May 1975 to ensure that it is in compliance with the exceptions made and maximize its impact.	

Chapter	Step	Institution
Annex II Investment Annex II	**7.** As regards future exceptions established in Annex II, the DR should insist on the following: **Sector:** All sectors. **Obligations Affected:** National Treatment, Senior Management and Boards of Directors **8.** In transferring or disposing of any equity interest or assets of an existing state enterprise or government agency, the Dominican Republic reserves the right to prohibit or impose limitations on the ownership of such interest or assets. It also reserves the right to impose limitations on the right of foreign investors or their investments to control any state enterprise created by the transfer or other disposition of any equity shares or assets as described in the preceding paragraph, or investments made by such state enterprise. As regards such transfer or disposition, the Dominican Republic may adopt or maintain any measure involving the nationality of senior management and/or members of Boards of Directors. This exception provides that the state may regulate both the shareholding capacity and the nationality of the members of Boards of Directors of state enterprises. There is no law or provision for such cases, as a result of which, if it is in the interest of the DR to maintain and regulate this capacity, appropriate supporting legislation should be created. **9.** Sector: Services related to the handicrafts industry. Obligations affected: National Treatment and Market Access for Goods. The DR did not have in effect a law establishing a national incentive for the handicraft industry, as a result of which it is important for the DR to take advantage of this exception and establish legislation granting rights to Dominican handicrafts, inasmuch as the DR is a significant tourist destination.	
Chapter Twelve. *Financial Services*	**1.** Both the public and the private sectors should organize a work plan and schedule consultations prior to the negotiations that will take place with each Central American Party as regards the measures listed in the Treaty's financial chapter (trade relations have been suspended between the Dominican Republic and Central America for a period of two years). The Dominican Republic should conduct studies aimed at exploring the possibilities opened by the chapter on financial services in its relationship with the countries of Central America, in addition to taking better advantage of the U.S. financial services market. This chapter creates a committee to which the DR may submit any matter that it wishes, as a result of which steps should be taken to take maximize advantage of such a mechanism.	
Chapter Thirteen. *Telecommunications*	1. This chapter grants increased powers to INDOTEL as a regulatory entity to authorize: the resale […] new INDOTEL services, although this matter is included in legislation currently in force. The Treaty opens possibilities for INDOTEL to regulate the portability of telephone numbers as well as to facilitate interconnectivity and allows companies to provide long distance and other services. In addition, as previously indicated, the Treaty grants authority to INDOTEL to apply and rule on the specific commitments established in this Agreement. It is essential that INDOTEL implement training workshops covering the new areas included in the Treaty.	INDOTEL
Chapter 15. *Intellection Property*	Before the Treaty enters into force, the DR should ratify the agreements identified in article 15.1 paragraphs 2 through 5, and should also make every reasonable effort to ratify those identified in article 15.6, if it has not done so already. The DR preserves its existing rights and obligations under the TRIPS Agreement and the Agreement on Intellectual Property, [both of which were] signed with, or administered by, the WTO, to which the country is a party. The DR also assumes the obligation of national treatment with respect to all categories of intellectual property identified in this chapter vis-à-vis the other parties, with the exception of the revocation of article 15.1 paragraphs 9 and 10. The SEIC, working in collaboration with the National Industrial Property Office and the Copyright Directorate, should take steps to ensure that any agreements for which ratification is still pending are promptly ratified.	SEIC, ONAPI and the Copyright Directorate

Chapter	Step	Institution
Trademarks	Article 15.1.14 establishes the obligation of transparency with respect to all laws, regulations and procedures regarding the protection of, or compliance with, intellectual property rights. A series of priorities are listed in article 15.1.16, to be carried out within the framework of the Committee on Trade Capacity Building. DR authorities should proceed to prepare a work plan outlining the country's participation in and implementation of those projects beginning with the entry into force of the Treaty. The DR should create an electronic system for applying for, processing and recording trademarks, together with an electronic database to be made available to the general public. Obligations with respect to geographic indications (article 15.3) include the simplification of application procedures and the transparency and supply of contact information to assist the general public [in making] inquiries regarding their specific interests. The DR should have in place appropriate procedures for settling cyberpiracy disputes. Article 15.5 regulates obligations regarding Copyright and Related Rights, protection of which will be for no less than the lifespan of the author, plus 70 years from the date of his or her demise, while article 15.5.4 (b) defines the term of protection on a basis other than that of the life of a natural person, which is also 70 years. The parties are required to apply the provisions set forth in article 18 of the Berne Agreement and article 14.6 of the TRIPS Agreement […] to the subject matter, rights and obligations established in this article and in articles 15.6 and 15.7 of this Chapter (obligations referring specifically to Copyright and Related Rights respectively). Article 15.5.7 includes measures to provide appropriate legal protection and effective legal remedies against circumvention of technological measures (as that term is defined in the Chapter) that authors, performers and producers of phonograms use in exercising their rights, and the parties are subject to the remedies established in article 15.11.14 and, in addition, required to establish criminal sanctions in cases of wrongdoing.	SEIC, ONAPI and the Copyright Directorate.
Patents	Article 15.8 identifies the obligation to classify as crimes certain actions relating to devices or systems for decoding an encoded program-bearing satellite signal without the authorization of the legitimate distributor of that signal […] the wrongful reception of an encoded satellite signal. Obligations are established by means of which each party, at the request of the patent holder, must modify the term of the patent in order to compensate for unreasonable delays in granting the patent, in accordance with the terms and conditions defined in the article (three or four years). Also, paragraph (b) of this article defines the obligation, applicable as appropriate, to restore of the term of the patent in order to compensate the patent holder for any unreasonable reductions in the effective term as a result of the process involved in approving the marketing of the product.	ONAPI
Obligations	Measures relating to certain regulated products involve obligations with respect to approval for marketing new pharmaceutical products and agricultural chemicals, for cases where a Party submits a request for data not yet made public regarding the safety and effectiveness of such products. The National Industrial Property Office should create a structure to streamline the procedure for obtaining patents, in order to avoid unreasonable delays. DR legislation includes an in-depth examination system for conducting such examinations, although it requires a high level of professionalism in addition to high levels of time and economic resources. A system that operates in accordance with the requirements of this Agreement should be implemented. Steps should be taken to take maximum advantage of all technical cooperation available. In accordance with the obligation undertaken by virtue of article 15.12, the DR agrees to implement certain provisions for a	National Congress

Chapter	Step	Institution
	period not to exceed the terms set forth in this article and its component paragraphs, beginning as of the entry into force of the Treaty. A study should be conducted and action taken to include in national legislation the measures recommended in this chapter. In addition, the judicial branch should be made aware of the obligations undertaken by the DR under this chapter in order to ensure the effective implementation of steps to prevent the violation of intellectual property [rights].	
Chapter Sixteen. Labor	1. This chapter includes obligations that require the Dominican Republic to designate a unit in its Ministry of Labor to serve as point of contact with the other parties to the Treaty, as well as with the general public, in carrying out the work of the Council, including coordination of the mechanism for Labor Cooperation and [Trade Capacity Building]. In accordance with article 16.4, the Dominican Republic may create a National Labor Advisory or Consultative Committee, or consult with an already existing committee of this type, which should include representatives of labor and business organizations. The Ministry of Labor, in cooperation with labor organizations and the various business sectors, should join efforts to organize their participation in such a mechanism. A special unit should be created in the Ministry for this purpose.	Ministry of Labor
Chapter Seventeen. *Environment*	**1.** The Dominican Republic is required to designate an office in the appropriate ministry to serve as a contact point. It is also required to convene either a new Council or Committee, or an existing national Consultative Council or Advisory Committee, to be made up of members of the general public, including representatives from its business and environmental organizations, so that they can make known their views on issues related to implementation of the provisions of this chapter (article 176.6). 2. The Dominican Republic should exchange letters or reach some other type of agreement between the parties, as provided in footnote 1 in the article, to designate a ministry or other approved organization (Secretariat) of the Treaty, in accordance with the provisions of this chapter. The DR is required to allow any individual from any of the parties to submit a communication alleging noncompliance with the effective application of the DR's environmental legislation, for consideration by the Secretariat and preparation of the case file containing the facts of the case (article 17.9). Such matters may be submitted by the Secretariat to the Council, and the Council may provide recommendations to the Environmental Cooperation Commission (ECC) […] among the governments of United States and other parties, including the Dominican Republic. This Commission plays a pivotal role regarding [compliance with] the objective of environmental cooperation outlined in article 17.9 and Annex 17.9. 3. The Ministry of the Environment and Natural Resources should implement an institutional strengthening program to enable it to prevent and sanction violations of Law 64-00 and the provisions of this chapter […] should implement a program with the private and public productive sectors with a view toward implementing an environmental protection program. In addition, I recommend [sic] the creation of a special unit within that ministry to deal with matters involving DR-CAFTA.	SEMREN
Chapter Eighteen. *Transparency*	1. The parties are required to adopt or maintain legislative or other measures necessary to classify as crimes in their national legislation, to the extent that they affect international investment or trade, [actions involving] any individual or public official [linked to] the actions specified in paragraphs a) and b) of the article. Although it is not mentioned, the article includes limited provisions on international investment and trade, taken from the International Convention on Corruption, which is broader in scope. That objective is also ratified implicitly in article 18.9 regarding cooperation in international forums. Strengthen the Department of Corruption Prevention in the appropriate areas as set forth in this Chapter and in the Treaty.	National Congress
Chapter Nineteen. *Administration*	1. The Free Trade Commission, consisting of cabinet-level representatives of each party, or the individuals designated by the latter, has now been established in accordance with Annex 9.1. The Dominican Republic designated the Minister of Industry and Commerce for this purpose. This Commission is the highest ranking body and will be responsible for	SEIC

Chapter	Step	Institution
of the Agreement and Trade Capacity Building	implementing the Treaty and for the committees or work groups established thereunder, while also acting as an entity for settling disputes and taking cognizance of any matter that might affect the functioning of the Treaty. In addition to the functions identified in paragraph 2 of this article, the Commission will have the authority to modify the tariff elimination schedules, the Rules of Origin and the Common Guidelines and may issue rulings on the provisions of this Treaty. The Commission will establish its own rules and procedures, for which no term was provided. 2. The DR should develop a strategic plan for taking maximum advantage of available technical cooperation. In addition, it should define national participation in the work group on customs administration and trade facilitation, in view of the high priority assigned to this area.	

SCHEDULE OF GOVERNMENT ACTIONS

Date	Action
Prior to the entry into force	The National Congress should ratify the Agreement and the Executive Branch should approve it no later than eight days subsequent to ratification. In order for the Treaty to enter into force simultaneously for the DR and the United States, the DR should forward the ratification instrument to the OAS so that, by mutual agreement, they can proceed to the exchange of communiqués regarding the ratification instrument on the date agreed upon for the Treaty to enter into force. These actions fall within the purview of the Executive Branch. If as a result of delay the DR fails to be included in the group of countries that would constitute the Treaty's Originating Parties (Original Parties for the Entry into Force of the Agreement), then it should forward to the OAS the ratification instrument within a period of 90 days prior to the entry into force of the Agreement for participation by the DR. For this process, the DR has a period of two years which, after taking into account the above-mentioned period of 90 days, actually will become 21 months before the end of the two-year period. Once this term has expired, the DR will lose its right to be a party unless the other parties agree otherwise. Reimbursement of customs duties on textile or apparel goods. Reports on television piracy. Steps to be taken to ensure adherence by the Dominican Republic to the WTO Information Technology Agreement.
At the time of the entry into force	The Dominican Republic should eliminate [duties or fees] (exchange commission) other than those included in its tariff elimination commitments. Common Guidelines for Rules of Origin. Upon the entry into force of the Treaty, the Dominican Republic undertakes the commitment of transparency and notification with regard to all obligations so requiring. Standard Rules of Procedure for Settling Disputes. Rules and Procedures of the Free Trade Commission.

Date	Action
	Mechanism for reassigning amounts not used within quota. Tariff elimination in accordance with the schedules in Annex 3. Mechanism for administration and implementation of tariff quotas on agricultural goods.
Three months subsequent to the entry into force	Establishment of the negotiating group for developing an appeals entity for the Chapter on Investment.
6 months subsequent to the entry into force	Lists of Panelists (General, Financial Services, Labor, Environmental). Implementation of copyright protection for a period of 70 years.
One year subsequent to the entry into force	Clearance of goods in compliance with customs legislation and, to the extent possible, within 48 hours subsequent to their arrival. Clearance of goods at the port of entry, with no temporary transfer to warehouses or other areas. Withdrawal of goods from customs, by importers, prior to the final determination of customs duties, taxes and applicable fees, and without prejudice to such determination. Issuance of decrees, laws, ordinances or regulations for actively regulating the procurement and administration of computer programs, such that all central government agencies use only authorized computer software. Adjustment of the term of patents resulting from unreasonable delays in their approval. Negotiations between the Dominican Republic and the countries of Central America regarding tariff treatment for certain products. Negotiations between the Dominican Republic and Costa Rica and Nicaragua regarding levels of agricultural activation for certain products.
Eighteen months subsequent to the entry into force	Inclusion of collective, certification and sound marks, as well as geographic indications and scent marks.
January 1, 2007	Provision of cost-based interconnection.
2 years subsequent to the entry into force	Grounds for denying protection or recognition of a geographic indication.

Date	Action
	Observance procedures that make it possible to take effective action against any instance of copyright violation. Publication, including on the Internet, of customs legislation, regulations and administrative procedures of a general nature. Design or maintain one or more contact points for consultation regarding the concerns of individuals interested in customs issues, and make available to them on the Internet information regarding the appropriate procedures for making such consultations. Adopt or maintain risk management systems. Adopt or maintain expedited customs procedures for express shipments, by maintaining appropriate customs control and selection procedures. The transitory Rules of Origin between the Dominican Republic and the United States expire. Make available to the general public any generally applicable judicial and administrative rulings involving government procurement. The Dominican Republic should provide to the other Parties any generally applicable judicial or administrative rulings relating to government contracting. Inclusion in the advice of future procurement of an indication that the procurement is covered by the DR-CAFTA Chapter on Government Procurement. Period of 40 days for the submission of bids. The Dominican Republic should provide no less that 30 days for the processing of all bids submitted. Preparation of written reports regarding the awarding of contracts by direct procurement. Publication of the notice of the awarding of a contract. Establishment and maintenance of procedures for declaring a provider ineligible to participate. Application of measures relating to financial services between the Dominican Republic and Guatemala. Application of measures relating to banking services between the Dominican Republic and the countries

Date	Action
	of Central America.
3 years subsequent to the entry into force	**Request for preferential treatment.** Request for preferential treatment by the importer by means of an electronic certification of origin or reasonable belief in the accuracy of the information provided by the importer. **Customs automation.** Measures aimed at providing appropriate legal protection and effective legal remedies against the circumvention of technological measures and restricting unauthorized actions with respect to their works, performances, and phonograms. Establish criminal procedures and penalties. Listing of exceptions.
December 31, 2009	Elimination of the exemption from customs duties contingent on compliance with performance requirements.
4 years subsequent to the entry into force	Adoption of the Law Governing Collective Investment Plans.
5 years subsequent to the entry into force	Negotiation of free trade treaties with Mexico and Canada.
Commitments for which no time limit was established	Commencement of consultations with a view toward determining the viability and desirability of including in the coverage provided in the Chapter on Public Procurement the construction of public works and the concession of public works in general between the Dominican Republic and the countries of Central America.

SECTION I
INTRODUCTION

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INTRODUCTION

In June 2003, the governments of the United States of America and the Dominican Republic agreed that the latter country would join negotiations underway at that time between the United States and Central America (CAFTA). Those negotiations led to the signing of the Free Trade Treaty known as DR-CAFTA between Central America, the United States, and the Dominican Republic.

On August 14, 2004, the Treaty was submitted by the Dominican Executive Branch to the National Congress for ratification. The National Congress is currently (June 2005) in the process of considering the Treaty.

El Salvador, Honduras and Guatemala completed their internal ratification procedures. It is expected the United States (USA), the Dominican Republic and Honduras will be able to complete their respective ratification processes prior to the end of 2005.

The United States Congress is considering approval of the Treaty Implementation Law. If that law is approved, the Treaty would be ready to enter into force between all Parties that have ratified it.

The Special Commission appointed by the Dominican Senate has carried out consultations with the general public with a view toward submitting its report to the complete Senate assembly.

The Dominican Congress will at that time make a decision on the Treaty, within such period of time as it deems appropriate. Although technically speaking those Parties that have not yet ratified the Treaty have up to 2 years, beginning as of the entry into force of the Treaty, to do so, in practical terms the uncertainty that this might produce in trade and investment sectors with ties to the Dominican Republic could conceivably impact negatively on national interests, thus giving an additional advantage to those Central American Parties that have already ratified the Treaty.

Simultaneously with consideration [of the Treaty] by the National Congress, and taking into account the proposals tabled by numerous productive sectors during the public consultation rounds, the Executive Branch, the Congress and the aforementioned sectors should work jointly to secure adoption by the Congress and the Executive Branch of an appropriate series of actions to facilitate the economic, trade and social adjustments that could conceivably result from Treaty implementation.

In view of the importance that certain sectors of the United State Congress attribute to participation by the Dominican Republic in DR-CAFTA, the Executive Branch, the National Congress and Dominican productive sectors should make whatever efforts are necessary to clearly make known their interest to the various interested parties in the US, based on the implementation program that they have outlined.

The above actions are political in nature, and accordingly this report focuses only on such actions as would logically be advisable, based on the premise that there will be a national consensus on the beneficial nature of the Treaty for the DR.

Through this Treaty, the Parties propose to create a larger and more secure market for the goods and services produced in the seven countries and to establish clear and mutually beneficial rules to govern trade among the countries.

The Treaty consists of 22 chapters which include schedules of tariff and non-tariff concessions, as well as a number of annexes dealing with exceptions and commitments relating to the liberalization of investments, trade and services, financial services and government procurement.

The Treaty also includes a series of measures and disciplines to govern the various sectors included in the Treaty, and sets forth norms and procedures for the topics covered in each chapter; in addition, it contains provisions covering specific procedures for settling disputes.

In 2004, the Dominican Republic's total trade exceeds US$8 billion, while trade between Central America and the United States totaled more than US$14 billion. DR-CAFTA constitutes an important step toward expanding the DR's trade relations with its principal trading partner.

Under the Treaty, the DR successfully incorporated, on a contractual basis, the benefits that it has been perceiving to date under the preferential treatment accorded by the U.S. Generalized System of Preferences (GSP), the Caribbean Basin Initiative (CBI) and the CBTPA Law on Association for Trade. These are multilateral instruments, and the latter expires in 2007.

This document provides an analysis of the principal provisions of the Treaty and in addition identifies the obligations incurred by virtue of the Treaty. The author also suggests a series of actions that would be appropriate in order to properly prepare national authorities for the commitments assumed by virtue of the Treaty. Finally, the document provides time limits and schedules for complying with those obligations.

The Ministry of Industry and Commerce (SEIC), which is the agency having the primary responsibility for Treaty coordination and implementation, should immediately develop an institutional strengthening plan that will prepare it to carry out its various functions under the Treaty and take advantage of the technical cooperation programs currently available.

The SEIC should prepare a work plan and carry out its coordination functions in such a manner that each government agency will prepare its own action plan for fulfilling its responsibilities.

At the same time, the government should consider creating, with the participation of numerous government and private sector institutions, a mechanism that would permanently formalize a structure for cooperation and follow-up on Treaty implementation that will in addition provide appropriate guidance for carrying out these tasks.

It will now be necessary to commence the process of actually creating the organizations and mechanisms established under the Treaty and to proceed to select the officials and other individuals that will be involved in them, including appointment of the Regulatory Commission on Unfair Practices and Safeguard Measures and provision of the appropriate budget allotment.

The government and Congress should work together to approve laws designed to improve both the environment of competitiveness, and the transparency and equity of commercial and economic transactions.

Included and still pending on the legislative agenda are the Law Governing the Defense of Competition and the Consumer Protection Law. Also of considerable importance is the draft law on International Trade Arbitration.

The national agencies responsible for Treaty implementation should develop appropriate measures to ensure that the productive sectors improve their competitiveness, by identifying comprehensive, non-discriminatory programs that comply with the regulations governing international trade as well as with the provisions of DR-CAFTA.

It will be necessary to precede with the modernization of government agencies, including particularly the SEIC, the Directorate General of Customs (DGA) and the Ministry of Agriculture (SEA).

The National Competitiveness Plan should comply with its established goals, toward which end it will be necessary to conduct an in-depth review of its current implementation status. The CEI-RD should play a key role in identifying market and investment opportunities that could become available under DR-CAFTA.

The manufacturing sector [should] develop more efficient strategies for conducting its operations and for participating actively in capturing markets in DR-CAFTA member countries. The differences in levels of competitiveness observed in the Dominican Republic make it necessary to put into place active industrial restructuring policies in order for the DR to improve its competitive performance. The tariff reductions obtained with regard to their U.S.-supplied inputs, plus those already existing vis-à-vis Central America, represent significant advantages. The productive sector could create a coordinating structure for engaging in dialogue with the government for the specific purpose of developing a DR-CAFTA implementation strategy.

The Agriculture sector should carry out a comprehensive program with a view toward improving its productive processes and increasing its efficiency in phytosanitary matters, while at the same time intensifying its efforts to remove the technical barriers to accessing the United States market. The openness achieved by DR-CAFTA will make it possible for the DR to take advantage of a significant potential for Agriculture products, particularly those with high value added.

Technical cooperation for trade capacity building is an excellent opportunity not only for adjustment purposes but also for taking advantage of the trade and business opportunities afforded by DR-CAFTA. A strategic program should be developed that will make it possible to define concrete areas of cooperation, including infrastructure improvement, institutional strengthening, regulations, market access, and new technologies.

SECTION II

COMMITMENTS UNDERTAKEN BY THE DOMINICAN REPUBLIC

SECTION II
COMMITMENTS UNDERTAKEN BY THE DOMINICAN REPUBLIC

This section describes the commitments undertaken by the Dominican Republic, broken down by Chapter.

A. Chapter One

The parties to the Treaty are required to comply with the provisions of article XXIV of the GATT 1994 and of Art. V of the General Agreement on Services, including notification to the World Trade Organization (WTO). Article XXIV constitutes an exception to the GATT 1994 principle of Most Favored Nation (MFN). Accordingly, the obligations and rights undertaken by the Dominican Republic, the United States and Central America by virtue of the Treaty may not be extended to any members of the WTO that are not Parties to the Treaty, in accordance with the provisions of that article and the standards of international law. The obligations of the Treaty are binding on central, state and provincial governments.

The Treaty objectives (article 1.2) define the essence of the Treaty and must be taken into account, along with the preamble to the Treaty, when submitting any matter for interpretation. In accordance with the WTO agreement, the rights and obligations of the parties continue to be governed within the framework of that Organization and the above-mentioned regulations.

B. Chapter Two

This chapter contains definitions that are generally applicable for purposes of the Treaty and that serve to guide and further define obligations.

C. Chapter Three. Obligations Involving National Treatment and Market Access for Goods

C1. National Treatment. The Dominican Republic undertakes the obligation of National Treatment with regard to the goods of the other Parties. (Article 3.2.) From the time that the goods of the other party enter into national territory, they must receive equal treatment with identical or similar national products as regards taxes, duties, fees and regulations. The Treaty incorporates article III of the GATT 1994, together with its interpretative notes, which form a part thereof, *mutatis mutandis*.

Exceptions. Article III excludes the following from National Treatment:

- Government procurements.
- Payments of subsidies exclusively to domestic producers.
- Any state and local laws excepted under the WTO.

C2. Transparency Commitments. The Dominican Republic is required to notify the parties with regard to any measures that run counter to this article, at any time during the effective period of the Treaty.

C3. Tariff Elimination. In accordance with article 3.3, the Dominican Republic is required to progressively eliminate its customs tariffs in accordance with the schedules included in Annex 3.3, which specify the terms and tariff concessions granted to the other parties. This obligation will be effective as of the entry into force of the Treaty and for the terms specified.

C4. Commitments of Inaction. By virtue of the commitment contained in article 3.3.1, the Dominican Republic may not increase any existing customs tariffs or adopt any new tariffs on an originating good, in accordance with the definition of customs duty provided in the general provisions.

ACTION. Negotiators for the United States and the Dominican Republic reached an understanding that the Government of the Dominican Republic will take the necessary steps, through the Ministry of Foreign Relations (SEREX), to ensure adherence by the DR to the WTO's Information Technology Agreement (ITA), in order to continue, at the multilateral level, the elimination of tariffs on those products to which immediate duty-free entry was granted (basket A) under DR-CAFTA.

C5. Exemption from Customs Tariffs. A period ending on December 31, 2009, is established for eliminating tariffs that are contingent on compliance with a performance requirement (article 3.4.39). The obligations of the Dominican Republic undertaken by virtue of article 3.4 refer exclusively to the exemption from tariffs that are contingent on compliance with a performance requirement and not other measures used by special regimes. Programs in which the exemption of tariffs on a particular good are contingent [on] the exportation of that good in particular or any other substitute good but that are not contingent on the export of other goods are permitted within the framework of DR-CAFTA, because the requirement regarding the export of the product in question is not a performance requirement in accordance with the definition of "performance requirement" included in the Agreement.

ACTION. Given the importance of the Free Trade Zone sector, the National Council for Free Trade Zones (CNZF), the Dominican Association of Free Zones (ADOZONA) and the Ministry of Industry and Commerce (SEIC) should begin working on reforming Law 8-90, since the term established for this Agreement will expire on December 31, 2009.

C6. Temporary Admission of Goods (article 3.5). As is evident from article 3.5.5, the Dominican Republic customs authority should put in place procedures aimed at facilitating the expedited release of goods admitted in accordance with this article. Although not specified, the sense of the text is that the procedures must be clearly stated. The provisions of this article are also aimed at clearly establishing the freedom of transit for goods admitted on a temporary basis, in that the good may be exported from a customs port other than the port at which is was admitted. Article 3.84 specifies

the obligation to consult in the event that one party adopts or maintains a prohibition or restriction on importations from a non-Party country. The SEIC should coordinate its activities with those of the DGA and the SEF for purposes of this chapter.

C7. Restrictions on Imports and Exports. The principal obligation deriving from article 3.8 is that the Dominican Republic may not adopt or maintain any prohibition or restriction on the importation of any goods of another party or on the exportation or sale for exportation of any good destined to the territory of another party, except as provided in article XI of the GATT 1994 and its interpretative notes, and for that purpose article XI of the GATT 1994 and its interpretative notes are incorporated into the Treaty, thus forming an integral part thereof, *mutatis mutandis*. By virtue of the fact that, by virtue of the Treaty, the parties have ratified their rights and obligations under the WTO, it follows that the country may seek the benefits provided by the exceptions to article XI of the GATT 1994 as specified in article XII (Balance of Payments) and any others established in any other context of the WTO agreements, for example, article XX (General Exceptions) and article XXVIII (b), to mention only a few.

Article 3.8, paragraphs 6 and 7. The provisions of these paragraphs regulate the application of restrictions on importations linked to contractual relationships. In this regard, it is stipulated that no Central American party nor the Dominican Republic shall require, as a condition for an importation commitment or for the importation of a good, that a person of the other party must establish or maintain a contractual or other type of relationship with a distributor in its territory (paragraph 6), nor provide relief for any violation or assumed violation of any law, regulation or other regulatory measure or measure regarding the relationship between any distributor in its territory and any person of another party through the prohibition of, or restriction on, any good of another party. In essence, these provisions refer to Law No. 173. The sense of this language is limited to the prohibition of measures at the border and not to other provisions regulating matters relating to agents and trade representations, [as discussed] in the appropriate chapters of the Agreement.

ACTION. The SEIC should inform the DGA that these obligations prohibit the application of precautionary restrictions to on importation of products by virtue of litigation [underway] within the framework of Law 173.

C8. Import Licenses (article 3.9). In accordance with article 3.9, **the DR must promptly notify the other parties, upon the entry into force of the Agreement,** of any import licensing procedure currently in effect, and, subsequently, **notify the other parties of any new import licensing procedure and any modification of their currently existing import procedures within a period of 60 days prior to the entry into force of the Treaty.** The Ministry of Finance (SEF), the DGA and the SEA should work on these issues jointly with the SEIC in order to adapt their procedures to the obligations incurred by virtue of the Treaty.

C9. Administrative Fees and Formalities. (Art. 3.10). The fees and formalities provided for in this article must be limited to the approximate cost of the services

provided and, in addition, must not represent an indirect protection of national goods nor a tax on imports or exports **for tax purposes.**

ACTION. The Executive Branch, the National Congress, the SEIC, the SEF and the DGA have responsibilities in this area, and the Transitory Commission on Unfair Trade Practices and Safeguard Measures have responsibilities as regards anti-dumping, compensatory and safeguard rights, which, once adopted, must be applied by the DGA.

This article contains contradictions that are inconsistent with the Exchange Commission, as a result of which it should be reviewed by the Executive Branch. **There is an obligation to maintain an up-to-date schedule of the fees or charges applied to imports and exports.**

C10. Taxes on exports (article 3.11). These types of taxes are prohibited, with the following exceptions:

a) When [the goods are] exported to territories of the other parties; and
b) When [the goods are] intended for internal consumption.

C11. Administration and Implementation of Tariff Quotas in agriculture (article 3.13). The DR must specify the agency that will implement and administer the tariff quotas for Agriculture goods. The provisions of the Agreement ratify the obligation undertaken by the Dominican Republic (which is likewise applicable to the other parties) by virtue of article XIII of the GATT 1994 and its interpretative notes, as well as the Agreement on Import Licenses. Article XIII of the GATT 1994 governs the nondiscriminatory application of quantitative restrictions (quotas, or quotas combined with licenses). According to these provisions, in the case of an import restriction that would involve the establishment of quotas, the party applying the quotas shall publish the total volume or value of the product or products whose importation is authorized for a specific subsequent period, as well as any change in such volume or value.

In view of the fact that the DR-CAFTA Agreement is limited to seven countries, these obligations are broken down accordingly, as well as within the framework of the commitments set forth in Annex 3.3, Appendix I or, as applicable, Appendix II or III, of their schedule contained in the above-cited Annex, which determines the respective bilateral obligations. Quotas must in addition be treated in such a way as to enable importers to fully use their import quotas. The parties are required to agree to consultations requested by the other parties as regards quota administration.

ACTION. The SEA, the SEIC and their dependent agencies are responsible for properly implementing this process and for creating a guide to the application and administration of the quotas established in this Agreement, in addition to [ensuring] their consistency with the commitments undertaken by virtue of the WTO Technical Rectification.

C12. Subsidies for agricultural exports. Article 3.14.2 prohibits any Party from introducing or maintaining any export subsidy on any agricultural good destined to the territory of another Party, except in the case that an exporting Party deems that a non-

Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, in accordance with the procedures described in article 3.14.3.

ACTION. The United States has proposed, in negotiations carried out within the framework of the WTO, the elimination of these types of subsidy. SEREX, through the DR's permanent mission to international organizations in Geneva and based on consultations with the appropriate sectors, should design an appropriate strategy for achieving this objective during the Doha Round.

C13. Agricultural safeguard measures. Article 3.15 is quite explicit as regards the regulations applicable to the goods listed in Annex 3.15. These measures, upon compliance with the activation parameters specified in the above-mentioned schedule, may be applied during any calendar year, but only during the transition period. These measures may not be applied or coexist with the safeguard measures applied in accordance with Chapter Eight on Trade Remedies (Bilateral Safeguards) or those adopted in accordance with article XIX of the GATT 1994 and the Agreement on Safeguards, identified as global safeguards in that Chapter.

ACTION. Responsibility for applying agricultural safeguard measures falls to the SEA and its dependent agencies, which should create a set of regulations and organize their operations toward this end. In addition, they should coordinate their activities with those of the SEIC and the National Commission on Unfair Trade Practices for this purpose.

Establishment of a Body. The appropriate body for applying trade remedies measures under Chapter Eight of DR-CAFTA is the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, created by means of Law 1-02 or its replacement law. On a transitional basis, this function is carried out by the Transitory Commission designated in Decree 184 of March 2002 and chaired by the SEIC. **The Treaty requires that the appropriate body have available an appropriate budget.** The differences between the procedures for applying the agricultural safeguard measures under article 3.15 and those that might be applied within the framework of Chapter Eight of DR-CAFTA and the WTO Safeguard Agreement is that the latter require that investigations be conducted in order to provide proof of damage or threat of damage and the causes thereof, while in the former the damage procedure is automatic, within the prescribed activation parameters, requiring both transparency and notification as to when they are implemented.

ACTION. The Executive Branch should proceed to appoint the members of the Regulatory Commission on Unfair Trade Practices and Safeguard Measures and assign to the Commission an appropriate budget.

C14. Consultations on Trade in Chicken (article 3.17). Beginning in the ninth year after the entry into force of the Treaty, the Parties will consult with each other and review the implementation and operation of the Treaty. This mechanism will enable the Dominican Republic to examine the effects of its trade and seek an appropriate balance between obligations and advantages in this regard. No immediate action is required.

C15. Commission on agricultural review (article 3.18). This article creates the Agricultural Review Commission. Beginning in the 14th year following the entry into force of the Treaty, this Commission will review Treaty implementation and operation as regards trade in agricultural goods. Among other things, an evaluation will be conducted of the possible extension of agricultural safeguard measures under this article.

C16. Committee on Agriculture Trade (article 3.19). No later than 90 days following the entry into force of the Treaty, the Parties will establish a Committee on Agricultural Trade. This will be a monitoring and consultative entity. The Committee will be required to meet at least once a year. No regulations or guidelines have been established for the operation of the Committee or with regard to the manner in which party representatives on this committee will be designated. The Committee will be chaired by the representative of the Party hosting the meeting.

ACTION. National authorities, and particularly the SEA, should meet with the appropriate sectors and prepare an action plan to take advantage of this mechanism. Efforts to organize participation should commence immediately.

C17. Reimbursement of Customs Duties on Textiles and Apparel (article 3.20). The Treaty establishes obligations whereby, as a result of a request by an importer, a party must reimburse the other parties for any additional customs duties paid in connection with the importation into its territory of an originating textile or apparel good between January 1, 2004 and the entry into force of the Treaty.

ACTIONS and OPTIONS. By virtue of article 3.20.2, the Dominican Republic (DR) may opt to be excluded from the above obligation, providing it submits a written notice to the other Parties, no later than 90 days prior to the entry into force of the Treaty, indicating that it will not comply with paragraph 1 of article 3.20.

Another alternative would be for the DR, within the above-mentioned time limit, to notify that it will provide a benefit for textile or apparel goods imported into its territory that the importing and exporting parties have agreed is equivalent to the benefits stipulated in paragraph 1.

The measures contemplated in this article will not be applied to a textile or apparel good that qualifies for preferential tariff treatment under articles 3.21, 3.27 or 3.28. National Authorities, particularly the SEIC, the SEF and the DGA, should examine this matter and prepare appropriate recommendations.

C18. Elimination of Currently Existing Quantitative Restrictions on Textiles and Apparel. The United States is committed to eliminating the existing quantitative restrictions that it maintains under the Agreement on Textiles and Apparel, included in Annex 3.22. This obligation is reiterative in that, at any rate, the United States is required to eliminate such quantitative restrictions as a result of the commitments undertaken with the WTO, which will become effective as of January 1, 2005.

C19. Textile Safeguard Measures (article 3.23). The measures contemplated in this article of the Treaty include all trade remedies measures that are justified as a result of increases in the importation of textile goods in large volumes, in either absolute or relative terms, to the internal market for that good, and under conditions such that they create a serious damage or a real threat of serious damage, to an area of national production producing a similar or directly competing good. Such [measures] will consist of increases in tariff rates, as specified in this article.

In accordance with this procedure, The Dominican Republic may apply a textile safeguard measure only after an investigation has been conducted by its appropriate authority.

ACTION. The appropriate authority designated by the Dominican Republic under Chapter Eight of the Treaty is the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, created by means of Law 1-02 of January 2002. Decree 184, dated March 2002, created a Temporary Commission.

The DR should organize its trade remedies mechanism so that the appropriate authority is able to conduct investigations and apply appropriate measures, with procedures to be aligned as provided in the requirements set forth in the WTO Safeguard Agreement, which are included in Law 1-02. These measures are applicable during the transition period.

The party that applies a textile safeguard measure should provide the party against whose goods the measure has been applied a mutually agreed upon trade liberalization compensation.

C20. Customs Cooperation (article 3.24). This article defines areas of cooperation for purposes of laws, regulations and procedures affecting textile or apparel trade; […] ensure the accuracy of claims of origin for these goods and discourage circumvention of the laws, regulations and procedures of any of the Parties or of any international agreements.

Commitments. Article 3.24 and its paragraphs 2, 3, 4, 6 and 7 provide the basis for the right of an importing party (the DR or the United States) to request in writing from an exporting party (the DR or the United States) that the latter conduct an investigation of a textile good in order to verify claims of origin and compliance with customs laws, regulations and procedures.

In accordance withy these provisions, the importing party may assist in the verification process through the offices of its appropriate authority, together with an appropriate authority of the exporting party, **including visits to be made within the territory of the exporting party,** with such visits to be conducted in accordance with the procedure described in the above-cited paragraphs.

The provisions of this article stipulate transparency and reporting to resolve any technical or interpretative difficulty or to discuss ways to improve customs cooperation as regards the application of the article.

ACTION. The DR Customs Authorities should review and regularize their customs procedures so as to be able to exercise the rights provided under this article and to comply with the obligations undertaken; in addition, they should provide training to the appropriate personnel.

A customs modernization program should be implemented as a result of DR-CAFTA.

C21. Rules of Origin. Article 3.2.5. This article enables the parties to conduct consultations, at the request of either, with a view toward reaching an agreement on changes to the Rules of Origin for textiles and apparel. This article establishes a period of 90 days beginning as of the date of the request for the Parties to reach agreements on changes to Rules of Origin. In accordance with article 19.1.3 (b) of the Treaty, the Free Trade Commission may be empowered for such a purpose.

Task. Through the use of this mechanism, any agreement reached by the Parties with regard to a change in rules will replace the corresponding rules previously in effect. The SEIC and national authorities, in conjunction with any interested sectors, should be aware of and analyze the possibilities for changes in Rules of Origin that take into account [sources] and carry out any necessary activities and consultations.

Fabrics, Yarns and Fibers Not Available in Commercial Quantities (Goods in Short Supply) (article 3.2.5.2). Annex 3.2.5 includes the United States schedules of Goods in Short Supply that can be included in exportations of textile products without any restrictions on origin.

Article 3.2.5.4 establishes a procedure by means of which the United States, within a period of 44 days, must make a determination as to whether to approve a request to include in its schedule a Good in Short Supply. In the event that the United States does not make such a determination within that period, the United States shall, after a period of fifteen days, [be understood to have] automatically granted the request.

In addition, the United States may entertain requests from an interested entity to eliminate goods that are included on the schedule contained in Annex 3.2.5.5 or to introduce restrictions with regard to such goods if it is determined that such goods (fabric, yarn or fibers) are available in commercial quantities in the territory of any of the parties.

Such determinations cannot be made until six months after the good has been included, in an unrestricted quantity, in Annex 3.2.5.

After the entry into force of the Treaty, the United States will be required to publish the procedures that will govern consideration of requests submitted under paragraphs 4 and 5.

Article 3.2.5 (e) establishes special provisions for fabrics and yarns specified in individual responses of the regional preference systems indicated in that paragraph.

De minimis. The Treaty establishes a *de minimis* level of up to 10 percent of the total weight of the fibers or yarns used in the production of the component of the good that are not affected by the change in applicable tariff classification established in Annex 4.1 and that can be imported by the DR from any source, as a component of the final product, without regard to the origin of such final product, for export under the corresponding tariff elimination.

Most-Favored-Nation (MFN) Rates of Duty on Certain Goods. (Article 3.26). This article reiterates the assembly system for textile or apparel goods included in chapters 61-63 of the Harmonized System put into effect under United States duty item (98.02), by means of which the MFN rate of duty is applied only to the value of the good assembled, minus the value of fabrics, components or any other material, lining, or yarns of United States origin.

C22. Committee on Trade in Goods (article 3.30). This committee has jurisdiction to consider any matter under Chapters Three, Four or Five of the Treaty and to provide to the Committee on Trade Capacity Building advisory assistance and recommendations regarding the needs for technical assistance in reference to the above-mentioned chapters.

This is an extremely important committee. The National Coordinating Body must devise an interinstitutional coordination mechanism to deal with the matters that will fall under the jurisdiction of this committee, and it would be wise to identify cooperation projects for the provision of technical assistance.

ACTION. The SEIC should program the participation of this committee, and develop plans to maximize its benefits.

C23. National Treatment of Importations and Exportations (Annex 3.2). This Annex includes restrictions on imports and exports that are excluded from the National Treatment [obligations] established in article 3.2 and 3.8 of the Treaty.

For the DR, these exceptions concern the importation of automobiles and motorcycles, used household appliances, used clothing and nonworking motor vehicles.

DR's customs authorities should put in place appropriate controls to ensure compliance with these restrictions.

Included in the exception measures adopted by the United States in this Annex is the exception regarding the existing provisions of the Merchant Marine Act of 1920 and the Passenger Vessel Act, which the United States has also excepted under the WTO.

ACTION. It would be wise for the SEIC and national authorities to analyze this issue with a view toward proposing possible steps to find practical solutions so that US-flagships or vessels can be repaired in Dominican shipyards and except the sanctions included in the above-mentioned legislation.

C24. Tariff Elimination (Annex 3.3). The DR undertook the obligation to eliminate customs duties in accordance with the schedule included in this Annex, based on the tariff elimination categories indicated therein.

ACTION. The SEIC and the SEF, working jointly with the DGA, should ensure appropriate monitoring, control and compliance with these provisions and take any administrative measures and procedures necessary for that purpose.

C25. Special Provisions for Central America and the DR (Annex 3.3.6). Goods traded between each Central American Party that are imported directly and comply with the Rules of Origin set forth in Chapter Four will be granted duty-free treatment. Specific exceptions are established for certain goods listed in Chapters 15 and 27 of the Harmonized System.

In accordance with Annex 3.3.6.(5), the Parties from Central America or the DR may deny the Preferential Treatment established in this Annex if the good is produced in a free trade zone or under any other special fiscal or customs system, [in accordance with] the conditions of National Treatment specified in this provision.

One important option listed in this Annex is that the parties from Central America and the DR may agree to unify the special Rules of Origin (Appendix 3.3.6.). This Annex establishes a requirement to notify the United States and to provide an opportunity to carry out consultations with regard to the modifications proposed, at least 60 days prior to the conclusion of such an agreement.

Commitment. Appendix 3.3.6.4 provides a schedule of exceptions to Preferential Treatment. An understanding was reached that the DR and the countries of Central America will enter into negotiations one year following the entry into force of the Treaty with respect to the above-mentioned products, with the exception of sugar, tobacco, coffee, alcohol (except ethyl alcohol) and beer, with a view toward reaching an agreement on the tariff treatment that will continue to be excluded from Preferential Treatment.

C26. Safeguard measures between Costa Rica and the DR. Costa Rica and the DR are required to conclude negotiations within a period not to exceed one year following the entry into force of the Treaty with respect to the levels of activation of the agricultural

safeguards to be applied to originating chicken (tariff items 0207.13.91 and 0207.14.91) and milk goods (tariff items 0402.10, 0402.21 and 0402.29)

C27. Safeguard Measures between Nicaragua and the DR. Nicaragua and the DR are required to conclude negotiations within a period not to exceed one year following the entry into force of the Treaty with respect to the levels of activation of the agricultural safeguards to be applied to originating chicken (tariff items 0207.13.91 and 0207.14.91).

D. Chapter Four. Rules of Origin and Origin Procedures

The basic criteria for determining the origin of a good under this chapter are as follows:

- Good obtained in its entirety, or produced entirely, in the territory of one or more of the parties.
- Change in tariff classification.
- Good produced entirely within the territory of one or more of the parties, using exclusively originating materials.

The customs authorities of the DR and other Parties have jurisdiction in these matters.

ACTION. The DGA should carry out a comprehensive program of training on the Rules of Origin and Origin Procedures for such matters.

Chapter Four provides the methods for calculating the value of regional content, the value of materials, and appropriate adjustments.

D1. Accumulation (article 4.5). The DR and other Parties may incorporate originating goods or materials from one or more of the Parties, provided that the good is in compliance with the requirement found in article 4.1 and other requirements set forth in that Chapter.

D2. *De Minimis* (article 4.6). Except for the provisions established in Annex 4.6, the *de minimis* value that can be incorporated into a good from nonoriginating materials that do not undergo the applicable change in tariff classification is up to 10%. In the case of textile products, the *de minimis* values included in article 3.25.7 are applicable.

Chapter Four also regulates other origin requirements as regards: fungible goods and materials; accessories; replacements and tools; containers, packaging materials and containers and indirect materials used in the processing, transportation and transshipment […] and sets of goods.

D3. Consultation and Modification (article 4.14). One particularly important aspect of this Chapter is that the DR may submit for the consideration of the Trade Committee basic changes when it deems that a specific rule of origin established in Annex 4.1 needs to be amended in order to take into account changes in productive processes, shortages of originating materials or other similar scenarios.

Similar provisions for textile and apparel goods are included in paragraphs 1 through 3 of article 3.25, which are also applicable to this article.

National authorities and interested sectors should consider and analyze the possibilities for changes that they deem to be appropriate, as well as take any steps and make any consultations they deem necessary.

The effective period for the special Rules of Origin agreed to between the United States and the DR will expire two years following the entry into force of the Treaty.

D4. Claims of Origin (article 4.16). This article states that an importer may request preferential or tariff treatment based on either a written or electronic certification issued by the producer. Such claim may also be based on the knowledge or reasonable belief [in information provided by the importer] that the good is an originating good.

Commitment. The DR has a period of three years during which to request electronic certifications provided by importers, and the same period of time for the more informal procedure described in article 4.1.6 (b) of the Treaty, dealing with knowledge or reasonable belief.

According to this article, it will not be a requirement that certification be made on a preestablished form, although it must be made in writing or electronically, [and] must include information on the items or information fields described in that article. The article describes the requirements for producer or exporter certification.

Certifications will have a period of validity of four years following the date on which they are issued and the certification submitted by the importer may be made by either the importing party or the exporting party. Certifications will not be required for values totaling less than US$1,500 nor others as per the exceptions listed in article 417.

ACTION. This Chapter establishes obligations of the DGA with respect to exports and requirements for record keeping, as well as with regard to verification of goods, which will be the responsibility of the authorities. In this regard, it will be necessary to strengthen and improve current procedures, especially by taking note that the provisions of this article do not reduce the powers of the customs authorities to rule on issues submitted for their consideration, subject to informed criteria supporting their decision.

D5. Origin Procedures (Section b). This section describes matters of procedure and formalities with respect to the validity of requests for Preferential Treatment.

A period of one year is established for any importers who have not submitted requests for Preferential Treatment to request reimbursement of any excess duty paid as a result of the goods in question not having been granted Preferential Treatment; in such cases, the appropriate request must be submitted to customs authorities in accordance with the provisions of article 4.15 a), b) and c).

D6. Verification. This section establishes the procedures that the parties are required to observe in complying with their obligations in processes of verification and with respect to denial of Preferential Treatment.

The customs authorities of parties conducting verifications are required to provide to the importer a ruling in writing as to whether the good is an originating good, with the ruling to include conditions of fact as well as the corresponding legal basis.

Specific provisions have been established for the case of customs cooperation in the area of textile products. (Article 3.24.6 (d)).

ACTION. National authorities, the SEIC, the SEF, the DGA and other appropriate agencies should be prepared to establish a working mechanism with regard to these Common Guidelines, as the Treaty provides that the parties shall make every effort to do so as of the entry into force of the Treaty, and also with regard to the operating framework for conducting verifications of origin in accordance with article 4.20.1 (c).

E. Chapter Five. Customs Administration and Trade Facilitation

ACTION. The DR must publish, including on the Internet, its customs legislation, regulations and procedures. This is a permanent and ongoing obligation during the effective period of the Treaty. In addition, it must designate or maintain one or more points of consultation for addressing customs concerns. The SEIC, jointly with the DGA, should implement an action plan for this purpose.

E1. Release of Goods

Commitments. **DR customs authorities must adopt or maintain procedures that will ensure the prompt release of goods, to the extent possible within 48 hours subsequent to their arrival.**

Customs authorities should also make every effort to use information technologies that will streamline procedures (article 5.3). They should implement or maintain risk management systems for activities involving inspection of high-risk goods in order to simplify the release and movement of low-risk goods. They are [also] required to respect the confidential nature of information.

There exist obligations of cooperation specified in article 5.5 with regard to origin requests and origin procedures, the Customs Assessment Agreement as regards its laws and regulations, restrictions or prohibitions on imports or exports, or other matters to which the Parties may agree.

In addition, when the Parties have reasonable suspicion of illegal activity related to legislation or regulation, the other party may request the provision of specific

confidential information in connection with the importation of goods, in accordance with the requirements listed in article 5.5.

E2. Express Shipments (article 5.7). The Parties are required to maintain expedited customs procedures for express shipments in accordance with the conditions described in this article. The DR has a period of one year to comply with the obligations set forth in this article.

ACTION. The SEIC, working in collaboration with the DGA and appropriate agencies and sectors, should carry out an action plan in this regard.

E3. Review and Appeal. The Parties are required to have available levels of administrative review independent of the employee or office issuing the ruling and [to conduct] an official review of the ruling, as well as to take measures to impose civil or, where appropriate, criminal penalties for violations of its customs legislation and regulations, including those governing the tariff classification, customs valuation, country of origin and requests for Preferential Treatment.

E4. Advance Rulings (article 5.10). The customs authority or other appropriate authority must issue an advance ruling within a period of 150 days subsequent to the request, provided that the requesting party has provided all requisite information.

ACTION. The DGA and the SEIC should take note of these provisions in order to ensure their proper implementation.

Commitment. After one year, the DR is required to comply with the provisions set forth in the following articles:

5.2.2. (b) Allow goods to be released at the point of arrival.

5.2.2. (c) Allow importers to withdraw goods from customs prior to the final determination of applicable customs duties, and other taxes and fees, and without prejudice to such determination.

5.7 (Express Shipments).

Within a period of two years, the DR will be required to comply with the obligations set forth in the following articles:

Article 5.1.1 Ensure publication of all customs-related matters.

5.1.2 Designate contact points so that interested persons will have free access to information.

5.4 Customs inspections should focus on implementing an inspection system that emphasizes inspection of high-risk goods.

5.10 Prior to the importation of such goods into its territory, issue a ruling on customs matters involving classifications, valuations, origin and other matters.

ACTION. The SEIC, working jointly with the cabinet, should prepare to identify initial priorities regarding capacity building for the Working Group on Customs Administration and Trade Facilitation, which reports to the Committee on Trade Capacity Building.

F. Chapter Six. Affirmation of the Agreement on Sanitary and Phytosanitary Measures (SPM)

The Parties confirm their rights and obligations vis-à-vis each other, in accordance with the WTO Agreement on Sanitary and Phytosanitary Measures (SPM).

This chapter is applicable to all sanitary and phytosanitary measures affecting trade between the Parties. Issues arising between the Parties under this chapter may not be submitted to the Treaty's dispute settlement mechanism.

F1. Committee on Sanitary and Phytosanitary Matters (article 6.3)

ACTION. The SEIC should coordinate [the creation of] an interdisciplinary working group to establish the Committee on Sanitary and Phytosanitary Measures, which must be created no later than 30 days subsequent to the entry into force of the Treaty. The appropriate authorities should exchange letters in which they identify their primary representatives to the Committee and the effects of the Committee's creation. In addition, they should work to establish the terms of reference that will govern the Committee's operations. In Annex 6.3 (b), the DR identified the agencies from which the representatives will be designated.

Efforts should be stepped up to bring legislation and regulations governing these matters in the DR up to date and to enhance their implementing mechanisms. At the global level, the National Animal and Plant Health System should increase its effectiveness and transparency.

G. Chapter Seven. Technical Barriers to Trade

G1. Affirmation of the TBT Agreement. The Parties may confirm their rights and obligations to each other, in accordance with the WTO Agreement on Technical Barriers to Trade.

This Chapter applies to all standards, technical regulations and conformity assessment procedures of central government agencies that might affect trade between the Parties. As reference for the conformity assessment (article 7.5), this chapter includes as a guide the principles of various provisions of the TBT Agreement.

Paragraph 3 of this article includes a national treatment obligation by means of which each party will accredit, approve, license or otherwise recognize the conformity assessment entities in the territories of the other Parties under terms not less favorable than those granted to the conformity assessment entities in their own territory.

G2. Technical Regulations (article 7.6). This article establishes the obligation to explain the reasons for the decision to reject, [in order] to opt for the equivalence of technical regulations.

G3. Transparency (article 7.7). This article establishes the obligation to allow persons from other Parties to participate in the development of the standards, technical regulations and conformity assessment procedures, based on the principle of national treatment. The transparency obligation includes publications and ratifications.

Paragraph 8 of this article contains one exhortative element in that each party is encouraged to implement this article as soon as possible, and another mandatory element, that establishes a period of no more than five years for its implementation.

G4. Committee on Technical Barriers (article 7.8). The Agreement establishes a Committee on Technical Barriers to Trade, whose functions involving monitoring, improving, and facilitating cooperation, exchanging information, consulting, reviewing and/or consideration of any other matter submitted to the committee by the Parties are specified in this article.

ACTION. The DR designated the SEIC's Directorate of Foreign Trade and Administration of International Trade Treaties (DICOEX) to participate in the coordination of this Committee.

This chapter, like the TBT Agreement, does not establish any obligations regarding specific procedures regarding standards, technical regulations or conformity assessments. Rather, it limits itself to identifying the above-indicated parameters regarding the TBT Agreement, as well as those set forth in the chapter, which are procedures of a general nature that should be observed when such specific measures are adopted, in order to prevent them from becoming an unnecessary barrier to trade.

H. Chapter Eight. Trade Remedies

H1. Imposition of a Safeguard Measure (article 8.1). This article establishes the conditions for application of safeguard measures, which will consist of the following:

a) Suspension of the future reduction of any tariff rate established in the Treaty for the good.

b) Increase in the tariff rate to a level not to exceed the lesser of the MFN applied at the time the measure is applied [and] the MFN rate applied on the day immediately preceding the entry into force of the Treaty.

According to a footnote to this article, tariff quota measures and quantitative restrictions are excluded as forms of permissible safeguard measures.

The safeguard measures in this article can be adopted only during the transition period applicable to the good in question.

Justification for the measure, after appropriate investigations have been carried out, must be based on objective proof that an originating good is imported into the territory of the party applying the measure in quantities such that they constitute a substantial cause for serious damage, or threat of serious manage, to the area of national production producing a similar or directly competing good.

Since one of the premises for justifying safeguard measures is that the effects identified in the preceding paragraph will be the result of the reduction in the elimination of a customs tariff by virtue of the Treaty, article 8.1 provides for circumstance in which one party may exclude another party from applying a safeguard measure if the parties have granted duty-free treatment, in accordance with an agreement signed between those Parties, within a period of three years prior to the entry into force of the Treaty.

It is obvious, however, that it is up to the appropriate authorities of the party that is applying the measure and that finds itself in that circumstance to evaluate the causes or threat of damage, with that party then able to justify the safeguard measure for its application [to] the party referred to in the preceding paragraph, notwithstanding the prior duty-free preferential treatment.

H2. Standards for Safeguard Measures (article 8.2). Safeguard measures may be applied only for a period not to exceed four years, including any extension thereof.

Global safeguard measures carried out in accordance with the WTO Safeguards Agreement and article XIX of the GATT 1994 may last up to eight years.

National authorities should be aware that one critical element in support of such measures is to facilitate the adjustment of the national productive area in question, not to serve as permanent protective measures.

H3. Administration of the Procedures Involving Safeguard Measures

ACTION. The safeguard procedures identified in this chapter, like those of the WTO, require the existence of an appropriate national investigative authority to carry out the process of investigating and determining damages and applying safeguard measures; in addition, to the extent allowed by national legislation, the rulings of such authority are subjective to review by the administrative court system.

Annex 8.7 lists the appropriate investigative authorities. In the case of the DR, that authority is the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, created by Law 1-02 2002. Decree 184 of May 2002 designated a Transitory Commission for that purpose, to be reached chaired by the SEIC.

Article 8.3.3 stipulates that the appropriate authority mandated by national legislation to carry out these procedures must be provided with the necessary resources to enable it to perform its functions. Accordingly, the Executive Branch should rule on this currently existing temporary situation, in view of the designation that has already been made under the Treaty as regards the Regulatory Commission on Unfair Trade Practices and Safeguard Measures.

H4. Notification and Consultation (article 8.4). This article contains specific notification and consultation obligations as regards commencement of the safeguard procedure; determination of the existence of serious damage, or a threat of serious damage; and the decision to apply or extend.

H5. Compensation (article 8.5). A Party that applies a safeguard measures will be required, as provided in this article, to grant a mutually agreed upon compensation to the Party affected by the measure.

H6. Global actions (article 8.6). The Parties ratify their rights and obligations in accordance with article XIX of the GATT 1994 and the Agreement on Safeguards. Inasmuch as the measures under these agreements could affect Parties to the Treaty, since they are global rather than selective in nature and are applied to importations of goods regardless of their origins, this article authorizes the Party that undertake such action to exclude importations of an originating good of another Party, if such importations are not a substantial cause of serious damage or threat of damage.

In view of the existence of precedents in applying such power of exclusion by the United States with its NAFTA trading partners of Mexico and Canada, that authority has been objected to by various WTO member countries, [although that] has not prevented the United States from applying it. In addition, article XIX (b) of the GATT 1994 recognizes the authorizations of safeguard actions via third countries requested by countries whose preferences may have been affected in order to protect preferential advantages, which in this case could be interpreted as a provision that would justify exclusion.

H7. Section B Antidumping and Countervailing Duties (article 8.8). No obligations or specific rights were undertaken in the Treaty with regard to antidumping and countervailing duties measures. Therefore, in accordance with paragraph 3, each party retains its rights and obligations under the WTO Agreement as regards the application of antidumping and countervailing duties.

According to paragraph 1, the United States will continue to treat each party as a “beneficiary country” for purposes of the appropriate measures included in U.S.

regulations applicable to countries of the Caribbean Basin in investigative procedures regarding such measures.

That means that those specific provisions by means of which the appropriate U.S. investigative authority may aggregate imports for purposes of such measures only between countries of the Caribbean Basin, and not with other importations from outside that area, have been maintained, when the investigative procedures refer exclusively to products originating in the Caribbean Basin, i.e., such investigations may not be made with respect to importations originating outside the Caribbean Basin.

I. Chapter Nine. Government Procurement

I1. Scope of Application and Coverage (article 9.1). This chapter is applicable to any measure, including any act or guideline of a party, regarding covered procurement.

For purposes of this chapter, **covered procurement** means a procurement of goods, services or both:

(a) By any contractual means, including purchase, rental or lease, with or without an option to buy, build-operate-transfer contracts, and public works concession contracts;

(b) That is listed and subject to the conditions specified in:
- (i) Annex 9.1.2 (b) (i), which shall apply between the United States and each other party;
- (ii) Annex 9.1.2 (b) (ii), which shall apply between the Central America Parties; and
- (iii) Annex 9.1.2 (b) (iii), which shall apply between each Central American Party and the DR.

(c) That is conducted by a procuring entity; and

(d) That is not excluded from coverage.

I2. General Principles (article 9.2). With respect to any measure covered by this chapter, each party shall accord to the goods and services of another party and to the suppliers of another party of such goods and services, treatment no less favorable than the most favorable treatment the party or procuring entity accords to its own goods, services and suppliers. This obligation concerns national treatment.

With respect to any measure covered by this chapter, no party may treat one locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation or ownership, or discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of another party.

I3. Publication of Procurement Measures (article 9.3). Each party shall promptly:

(a) Publish any law or regulation, and any modification thereof, relating to procurement;

(b) Make publicly available any procedure, judicial decision or administrative ruling of general application relating to procurement; and

(c) At the request of a party, provide to that party a copy of a procedure, judicial decision or administrative ruling of general application relating to procurement.

I4. Publication of Notice of Intended Procurement (article 9.4). In accordance with article 9.9.2, a procuring entity must publish in advance a notice inviting interested suppliers to submit tenders for each procurement covered.

I5. Time limits for the tendering process (article 9.5). A procuring entity must provide suppliers sufficient time to prepare and submit tenders, taking into account the nature and complexity of the procurement. In no case shall a procuring entity provide less than 40 days from the date of publication of a notice of intended procurement to the final date for submission of tenders.

I5. Tender Documentation (article 9.6). A procuring entity must provide to interested suppliers tender documentation that includes all information necessary to prepare and submit responsive tenders.

I6. Requirements and Conditions for Participating in Procurements (article 9.8). When a procuring entity requires suppliers to satisfy registration, qualification or any other requirement or condition for participation ("conditions for participation") in order to participate in a procurement, the procuring entity shall publish a notice inviting suppliers to apply for registration or qualification, or to satisfy any other conditions for participation.

No procuring entity may make it a condition for participation in a procurement that a supplier have previously been awarded one or more contracts by a procuring entity or that the supplier have prior work experience in the territory of a party.

A procuring entity will communicate promptly to any supplier requesting qualification of its ruling in this regard.

I7. Tendering Procedures (article 9.9). Subject to the provisions of paragraph 2, a procuring entity shall award contracts by means of open tendering procedures.

I8. Awarding of Contracts (article 9.10). A procuring entity shall require that, in order to be considered for award, a tender must be submitted in writing and must, at the time it is submitted, conform to the essential requirements of the tender documentation that the procuring entity provided in advance to all participating suppliers, and be from a

supplier that has complied with any conditions for participation that the procuring entity has communicated in advance to all participating suppliers.

I9. Information on Contract Awards (article 9.11). A procuring entity shall promptly inform participating suppliers of decisions on contract awards.

I10. Non-disclosure of Information (article 9.12). A party, its procuring entities and its review authorities shall not disclose confidential information without the formal authorization of the person that provided the information to the party, when such disclosure might prejudice the legitimate commercial interests of a particular person or might compromise fair competition between suppliers.

I11. Ensuring integrity in Procurement Practices (article 9.13). Further to article 18.8 (Anti-Corruption Measures), each party shall adopt or maintain procedures to declare ineligible for participation in the party's procurements, either indefinitely or for a specified time, suppliers that the party has determined to have engaged in fraudulent or other illegal activities involving procurement. At the request of another party, a party shall identify the suppliers determined to be ineligible under these procedures and, where appropriate, exchange information regarding those suppliers or the fraudulent or illegal action.

I12. Domestic Review of Supplier Challenges (article 9.15). Each party shall establish or designate at least one impartial administrative or judicial authority, which shall be independent from its procuring entities, to hear and review challenges submitted by suppliers and relating to the obligations of the party and its entities under this Chapter, and to make appropriate findings and recommendations.

Each party shall provide that an authority established or designated under paragraph 1 may take timely precautionary measures, pending resolution of a challenge in order to preserve the opportunity to correct any potential violation of the provisions of this Chapter, including suspension of the awarding of a contract or the performance of a contract already awarded.

Each party shall ensure that its review procedures are publicly available in writing and are timely, transparent, effective and consistent with the principle of due process.

ACTION. The SEF and other appropriate institutions should prepare the regulations and forms in observance of the procedures requirements indicated in the Treaty [and] respect the thresholds, time limits and publications established in this chapter.

These processes should be coordinated with the covered institutions so that Common Guidelines can be issued to all such institutions.

Technical cooperation should be requested for modernizing the DR's government procurement procedures. The procurement and purchasing departments of the various

covered state institutions should be the subject of a comprehensive program of staff training and technological modernization.

This chapter is also especially important as regards the commitments undertaken by the DR by virtue of the Inter-American Convention on Corruption, which requires that government procurement procedures for goods and services be carried out with the greatest possible degree of transparency.

J. Chapter Ten. Investment

J1. Scope and Coverage. (article 10.1). This chapter applies to measures adopted or maintained by a party relating to the investors of another party, covered investment, and, with respect to articles 10.9 and 10.11, all investments in the territory of the Party.

J2. National Treatment (article 10.3). Each party shall accord to investors of another party treatment no less favorable than that that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or disposition of investments in its territory.

J3. Expropriation and Compensation (article 10.7). No party may expropriate or nationalize a covered investment, either directly or indirectly, by means of measures equivalent to expropriation or nationalization ("expropriation") except:
(a) For a public purpose;
(b) In a nondiscriminatory manner;
(c) On payment of prompt, adequate and effective compensation in accordance with paragraphs 2 through 4; and
(d) In accordance with due process of law and article 10.5.

Compensation shall:
(a) Be paid without delay;
(b) Be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("the date of expropriation");
(c) Not reflect any change in value occurring because the intended expropriation had become known earlier; and
(d) Be fully realizable and freely transferable.

J4. Transfers (article 10.8). Each party shall allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:
(a) Contributions to capital;
(b) Profits, dividends, capital gains and proceeds from the sale of all or any part of the covered investment;
(c) Interests, royalty payments, management fees, technical assistance, and other fees;
(d) Payments made under a contract, including a loan agreement;
(e) Payments made pursuant to articles 10.6.1 and 10.6.2 and article 10.7; and
(f) Payments arising out of a dispute.

Each party shall allow transfers related to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

J5. Performance Requirements (article 10.9). No party may, in connection with the establishment, acquisition, management, conduct, operation, or sale or other disposition of an investment of an investor of a party or of a non-Party in its territory, impose or enforce any of the following requirements, or enforce any commitment or undertaking:

(a) to export a given level or percentage of goods and services;
(b) to ensure a given level or percentage of domestic content;
(c) to purchase, use or accord a preference to goods produced in its territory or to purchase goods from persons in its territory;
(d) to relate in anyway the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;
(e) to restrict sales of goods or services in its territory that such investment produces or supplies, by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
(f) to transfer a particular technology, production process or other proprietary knowledge to a person in its territory; or
(g) to supply exclusively from the territory of the party the goods that such investment produces or the services it supplies to a specific regional market or to the world market.

J6. Senior Management and Board of Directors (article 10.10). No party may require that an enterprise of that party that is a covered investment appoint to senior management positions natural persons of any particular nationality.

J7. Consultation and Negotiation (article 10.15). In the event of an investment dispute, the claimant and the respondent should initially try to settle the dispute through consultation and negotiation, which may include the use of nonbinding, third-party procedures such as conciliation and mediation.

J8. Submission of a Claim to Arbitration (article 10.16). In the event that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation, it may submit to arbitration a claim in accordance with the procedure established in this section of the Treaty.

For Parties of the Treaty that are not Parties of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID), dated March 18, 1965, claims submitted to arbitration shall be made in accordance with the Rules of Arbitration of the United Nations Commission on International Mercantile Law (CNUDMI).

ACTION. Although the DR is not currently required to adhere to or ratify the ICSID Agreement, national authorities should evaluate the advisability of ratifying that Agreement.

The DR has ratified the Inter-American Convention on International Trade Arbitration, promulgated in Panama on January 30, 1975, as well as the United Nations Convention on the Recognition and Execution of Foreign Arbitration Rulings, also known as the New York Convention, promulgated in New York on June 10, 1958.

Inasmuch as arbitration is a mechanism included among the methods for settling differences under this Treaty, as well as in other instruments ratified by the DR, national authorities should develop a program to take maximum advantage of technical assistance in this area.

K. Chapter Eleven. Cross-border Trade in Services

K1. Scope and Coverage (article 11.1). This chapter applies to measures adopted or maintained by a party affecting cross-border trade in services by service suppliers of another Party. Such measures include measures affecting:
(a) The production, distribution, marketing, sale and delivery of a service;
(b) The purchase or use of, or payment for, a service;
(c) The access to and use of distribution, transport or telecommunications networks and services in connection with the supply of a service;
(d) The presence in its territory of a service provider of another party; and the provision of a bond or other form of financial security as a condition for the supply of a service.

This chapter does not impose any obligation on a party with respect to a national of another party seeking access to its employment market or employed on a permanent basis in its territory, and does not confer any right on that national with respect to such access or employment.

This chapter does not apply to services supplied in the exercise of governmental authority. A “service supplied in the exercise of government authority” means any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers.

K2. National Treatment (article 11.2). Each party shall accord to service suppliers of another party treatment no less favorable than it accords, in like circumstances, to its own service supplier.

K3. Market Access (article 11.4). No party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that impose limitations on:
(i) The number of service suppliers, whether in the form of numerical quotas, monopolies or exclusive service providers, or the requirement of an economic needs test;
(ii) The total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) The total number of service operations or on the total quantity of service output, expressed in terms of designated numerical units in the form of quotas, or the requirement of an economic needs test; or
(iv) The total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or restrict or require specific types of legal entity of joint venture through which a service supplier may supply a service.

In addition to Chapter Eighteen (Transparency), each party must establish or maintain appropriate measures to respond to the consultations of interested persons regarding its regulations related to the subject matter of this Chapter. When adopting definitive regulations related to the subject matter of this Chapter, each Party will respond in writing, to the extent possible, even at request, to the substantive comments received from interested persons with regard to draft regulations.

K4. Domestic Regulation (article 11.8). If the results of the negotiations related to article VI:4 of the GATS (or the results of any similar negotiations carried out in other multilateral forums in which the parties participate) enter into force for each party, this article shall be amended, as appropriate, following consultations between the parties, to bring those results into force under this Agreement. The Parties will coordinate on such negotiations, as appropriate.

K5. Mutual Recognition (article 11.9). For purposes of the compliance, in whole or in part, with its standards or criteria for the authorization, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licenses or certification granted in a particular country, including another Party and a non-party.

Such recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the country concerned, or may be accorded autonomously.

ACTION. The DR, through the Santo Domingo Autonomous University, the Ministry of Higher Education and national associations of professionals, should: detail, list and render transparent all steps involved in the renewal of licenses to exercise the various professions in the country.

K6. Transfers and Payments (article 11.10). Each Party shall permit all transfers and payments relating to the cross-border supply of services to be made freely and without delay into and out of its territory.

Each Party shall permit such transfers and payments relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of the transfer.

K7. Specific Commitments (article 11.13). Express Delivery Services:
(a) The parties affirm that measures affecting Express Deliver Services are subject to this Agreement.
(d) Neither a Central American Party nor the Dominican Republic may adopt or maintain any restriction on Express Delivery Services not in existence on the date this Agreement is signed.
(e) Each Party shall ensure that, where its monopoly supplier of postal services competes, either directly or through an affiliated company, in the supply of Express Delivery Services outside the scope of its monopoly rights, such supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with the Party's obligations under articles 11.2, 11.3, 11.4, 10.3 (National Treatment) or 10.4 (Most-Favored-Nation Treatment). The Parties also reaffirm their obligations under article VIII of the GATS.

NOTE. In accordance with this Treaty, the DR may not impose any legislation that restricts Express Delivery Services (courier). The Dominican Postal Institute may not impose any type of new regulation that would create restrictive practices targeting the above-mentioned sectors.

K8. Annex 11.13. Specific Commitments. Section B: Dominican Republic. The DR shall not apply Law No. 173 to any covered contract signed after the entry into force of this Treaty unless the contract explicitly provides for the application of Law No. 173, and in place of Law No. 173 shall:
(a) Apply the principles of the Dominican Republic's Civil Code to the covered contract;
(b) Treat the covered contract in a manner consistent with the obligations of this Agreement and the principle of freedom of contract;
(c) Treat the termination of the covered contract, either on its termination date or pursuant to subparagraph (d), as just cause for a goods or service supplier to terminate the contract or allow the contract to expire without renewal;
(d) If the covered contract has no termination date, allow it to be terminated by any of the Parties by giving six months advance termination notice;
(e) Provide that after the termination of the covered contract or the decision not to renew it:
    i) If the covered contract contains an indemnification provision, including a provision establishing nonindemnification, indemnification will be based on that provision;
    ii) If the covered contract does not contain such a provision, any indemnification will be based on actual economic damages as opposed to a statutory formula;
    iii) The grantor will honor all outstanding guarantees; and
    iv) The grantor will compensate the distributor for the value of any inventory that the distributor is unable to sell based on the termination or the decision not to renew the contract. The value of inventory shall include any customs duties, surcharges, freight expenses, costs of internal movement, and inventory carrying costs paid by the distributor.
(f) Allow disputes arising from the covered contract to be settled through binding arbitration; and

(g) Allow the Parties to the covered contract to establish in the contract the mechanisms and forums that will be available in the event of disputes.

Nothing in subparagraph (c) shall prevent parties from demanding indemnification, when appropriate, in the form, type and amount agreed to the contract.

ACTION. As soon as possible, the DR should prepare a set of regulations to govern application. The SEIC made a commitment to the various sectors to develop a set of regulations that will serve to guide the proper application of the commitment undertaken by virtue of this Chapter. However, a draft law has already been submitted that would give such guidelines the force of law. It would be wise to analyze the various aspects of this draft law in order to avoid any inconsistency with the commitments undertaken under this Treaty.

K9. ANNEX I

In Annex I, the DR made exceptions for national laws as nonconforming measures. With regard to those exceptions, it would be advisable to carry out the following tasks and take the following actions:

K9a. Tourism. In order to operate in the DR, foreign travel agencies and tour operators must be legally authorized in their country of origin and be represented by a local agency. Tour guide licenses may be granted to foreign nationals only in exceptional circumstances, such as when no Dominican tour guide can satisfy the needs of a particular tour group, including the need to speak a particular language. All casino and game employees must be Dominican nationals. Drivers for lands transfers of tourists must be Dominican nationals or foreign nationals residing in the DR.

ACTION. This law at present has been experiencing implementation difficulties. Since this is an exception in the Treaty, it will be necessary to create mechanisms to ensure compliance with the law, especially Law 541, as regards the representation of foreign agencies and tour operators, in addition to the nationality of the workers in the sector governed by the law and its implementing regulations.

K9b. Maritime transportation. Vessels used for towing passenger or freight transportation, or for loading or unloading in Dominican ports, as well as vessels used to navigate inland waterways in the DR, must be Dominican flagged vessels.

Cabotage in the DR is exclusively reserved for Dominican flagged vessels. When a Dominican flagged vessel cannot perform this service, a temporary permit may be issued to a national ship owner for a foreign flag vessel to offer this service.

All Dominican Republic flag ships of more than 50 tons providing cabotage and that do not ship freight abroad are exempt from the requirement to have a harbor pilot on board and to pay pilotage fees.

DR-flag vessels that carry out services involving the loading or unloading of goods or passengers pay 50 percent of the fee established for foreign-flag vessels

Fees for foreign flag vessels will range from US$1.00 per foot of beam per day in port to US$1.15 per foot of beam per day in port.

ACTION. The DR should review Law No. 180 dated May 30, 1975 dealing with the protection and development of the merchant marine, in order to ensure that it complies with the exceptions established and to maximize the effect of the law.

K10. ANNEX II. As regards future exceptions established in Annex II, the DR should insist on the following terms:

K10a. All sectors – Investment. On transferring or disposing of any interest or asset of an existing state enterprise or governmental entity, the DR reserves the right to prohibit or limit the ownership of such interest or asset. However, the preceding sentence pertains only to the initial transfer or disposal of such interest or asset. There are no restrictions on successive transfers or disposals of such interest or asset.

The DR reserves the right to limit the right of foreign investors or their investments to control any new state enterprise created by the transfer or disposal of any interest or asset as described in the preceding paragraph or investments made by such state enterprise. As regards such transfer or disposal, the DR may adopt or maintain any measure related to the nationality of senior management and members of boards of directors.

ACTION. This exception stipulates that the state may regulate both the shareholding capacity and the nationality of members of the boards of directors of state enterprises. There is no law or provision for such purposes, and accordingly, if it is in the best interest of Dominican policy to maintain such capacity and to regulate it, appropriate supporting legislation should be created.

K10b. Services related to the crafts industry. The DR reserves the right to adopt or maintain any measure relating to the distribution, retailing or exhibition of handicrafts identified as handicrafts of the Dominican Republic.

ACTION. The DR has no law establishing a national incentive for the manufacturer of handicrafts, as a result of which it will be important to take maximum advantage of this exception and establish legislation granting rights to Dominican handicrafts, in view of the fact that the DR is an important tourist destination.

L. Chapter Twelve. Financial Services

L1. Scope and coverage (article 12.1). This chapter applies to measures adopted or maintained by financial institutions of another Party; investments of another party; and

the investments of such investors in financial institutions in the Party's territory; and cross-border trade in financial services.

Chapters Ten (Investment) and Eleven (Cross-Border Trade in Services) are applied to the measures described in paragraph 1 only to the extent that these Chapters or the articles of these Chapters are incorporated into this Chapter.

Articles 10.7 (Expropriation and Compensation), 10.8 (Transfer), 10.11 (Investment and Environment), 10.12 (Denial of Benefits), 10.14 (Special Formalities and Information Requirements) and 11.12 (Denial of Benefits) are incorporated into this Chapter and become an integral part thereof.

Section B of Chapter Ten (Settlement of Investor-State Disputes) is incorporated into this Chapter and forms an integral part thereof only as regards claims that a Party has violated article 10.7, 10.8, 10.12, or 10.14, as incorporated into this Chapter.

Article 11.10 (Transfers and Payment) is incorporated into this Chapter and forms an integral part thereof to the extent that the cross-border trade in financial services is subject to the requirements set forth in article 12.5

(a) Subject to subparagraph (c) below, within a period of two years beginning as of the entry into force of this Treaty, this Chapter will not be applicable to:

- (i) Measures adopted or maintained by the DR with regard to financial institutions of Costa Rica, El Salvador, Honduras or Nicaragua to the extent that they provide banking services; to institutions of a Central American Party and investments of such investors in those financial institutions in the territory of the DR; or to cross-border trade and banking services between the DR and a Central American Party;
- (ii) Measures adopted or maintained by Costa Rica, El Salvador, Honduras or Nicaragua regarding financial institutions of the DR, to the extent that the latter provide banking services; to investors of the DR and the investments of such investors in such financial institutions in the territory of such Central American Party; or to cross-border trade and banking services between such Central American Party and the DR;
- (iii) Measures adopted or maintained by the DR regarding financial institutions of Guatemala, investors of Guatemala and the investments of such investors in such financial institutions in the territory of the DR; or to cross-border trade and financial services between the DR and Guatemala; or
- (iv) Measures adopted or maintained by Guatemala regarding financial institutions of the DR; to investors of the DR and the investments of such investors in such financial institutions in the territory of Guatemala; or to cross-border trade in financial services between Guatemala and the DR.

(b) During the two-year period referred to in subparagraph (a), the DR and each Central American Party shall seek to agree on those measures described in subparagraph (a) that shall be considered nonconforming measures pursuant to article

12.9 and that shall be reflected in their respective Schedules of Annex III for purposes of modifying their mutual rights and obligations under this chapter.

(c) If the Commission approves any such agreement during this period, each relevant party's schedule shall be modified accordingly. Subparagraph (a) shall cease to apply as between the DR and the relevant Central America Party on the date the modification takes effect.

L2. National Treatment (article 12.2). Each party shall accord to investors of another party treatment no less favorable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.

L3. Most-Favored-Nation Treatment (article 12.3). Each party shall accord to the investors of another party, investments of investors in financial institutions of another party, and cross-border suppliers of financial services of another party treatment no less favorable than it accords to the investors, financial institutions, investments of investors in financial institutions and cross-border financial service providers of any other party or of a non-Party, in like circumstances.

L4. Market access for financial institutions (article 12.4). No Party may adopt or maintain, with respect to financial institutions of another party, either on the basis of a regional subdivision or on the basis of its territory, measures that:

(a) Impose limitations on:
(i) the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service providers or the requirement of an economic needs test;
(ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
(iii) the total number of financial service operations or the total quantity of financial service output expressed in terms of designated numerical units in the form of quotas or the requirements of an economic needs tests; or
(iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and that are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirements of an economic needs test; or

(b) Restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

L5. Cross-border trade (article 12.5). Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of another party, to supply the services specified in Annex 12.5.1.

L6. Transparency (article 12.11). Each Party agrees to provide regulatory transparency in financial services. In lieu of article 18.2.2 (Publication), each Party will, to the extent practical:
(a) publish in advance any regulations of general application relating to the subject matter of the chapter that it proposes to adopt; and
(b) provide interested persons and Parties a reasonable opportunity to comment on the proposed regulations.

Within a period of 120 days, a party's regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution, or a cross-border financial service provider of another Party relating to the supply of a financial service, and shall promptly notify the applicant of the decision.

L7. Payment and clearing systems (article 12.13). Under terms and conditions that accord national treatment, each Party shall grant financial institutions of another Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business.

L8. Financial services committee (article 12.16). The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the party's authority responsible for financial services set out in Annex 12.16.1.

L9. Consultations (article 12.17). A Party may request consultations with another Party regarding any matter arising under this Agreement that affects financial services. The other party shall give sympathetic consideration to such request. The consulting party shall report the results of their consultations to the Committee.

L10. Dispute settlement (article 12.18). Section A of Chapter Twenty (Dispute Settlement) applies, as modified by this article, to the settlement of disputes arising under this Chapter.

Within a period of six months after the entry into force of this Agreement, the Parties shall establish and maintain a roster of up to 28 individuals who are willing and able to serve as financial service panelists. Unless the Parties agree otherwise, the roster shall include up to three individuals who are nationals of each party and up to seven individuals who are not nationals of any Party.

L11. Investment disputes in financial services (article 12.19). Where an investor of a Party submits a claim under section B of Chapter 10 (Investments) against another Party and the respondent invokes article 12.10, at the request of the respondent the tribunal shall refer the matter in writing to the Financial Services Committee for a ruling. The tribunal may not precede pending receipt of a ruling or report under this article.

ACTION. The public and private sectors should organize a work and consultation plan for the negotiations that will take place with each Central American Party as regards the measures described in the financial chapter of the Treaty. [Relations in this area] between the DR and Central America were suspended two years ago.

The DR should conduct studies with a view toward exploring the possibilities made available to it by the chapter on financial services in its relationship with Central America. In addition to making better use of the Unites States financial services market, this chapter creates a committee that will enable the DR to submit [for consideration] any issue that it wishes, as a result of which steps should be taken to make maximum use of this mechanism.

L12. Annex 12.5.1. Cross-border Trade. Section B: DR

L12a. Insurance and insurance-related services*.* For the DR, article 12.5.1 applies to the cross-border supply of or trade in financial services, as per the definition of cross-border supply of financial services provided in subparagraph (a) with respect to:

(a) Insurance of risk relating to maritime shipping and commercial and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported; the vehicle transporting the goods and any liability arising therefrom; goods in international transit; and reinsurance and retrocession;

(c) Brokerage of insurance risks relating to paragraph (a); and

(d) Consultancy, risk assessment, actuarial and claims settlement services.

For the DR, article 12.5.1 applies to the cross-border supply of or trade in financial services, as defined in subparagraph (c) of the definition [sic] of cross-border supply of financial services with respect to insurance services.

L12b. Banking and other financial services (excluding insurance). For the DR, Article 12.5.1 applies with respect to the provision and transfer of financial information and financial data processing and related software as referred to in subparagraph (o) of the definition of financial service and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of financial services.

L13. Annex 12.9.2. Specific Commitment. Section B: DR

L13a. Portfolio management. The DR shall allow a financial institution (other than a trust company), organized outside its territory, to provide investment advice and portfolio management services, excluding (a) custodial services, (b) trustee services and (c) execution services not related to managing a collective investment scheme, to a

collective investment scheme located in its territory. This commitment is subject to articles 12.1 and 12.5.3.

The Parties recognize that the DR does not currently have in force legislation recognizing collective investment schemes. Notwithstanding paragraph 1, and no later than four years after the entry into force of this Agreement, the DR shall implement paragraph 1 by adopting a Special Law to regulate collective investment schemes, which shall contain a definition of the term collective investment scheme as specified in paragraph three.

For purposes of the two preceding paragraphs, **collective investment scheme** shall have the meaning provided under the Special Law that the Dominican Republic adopts pursuant to the above paragraph.

L13b. Expedited availability of insurance. It is understood that the DR requires prior product approval prior to the introduction of a new product. The DR shall provide that, once an enterprise seeking approval for such a product files information with the DR's regulatory authority, the regulator shall, within a period of 30 days, grant approval or issue disapproval, in accordance with the DR's law, for the sale of the new product. It is understood that the DR maintains no limitations on the number or frequency of new product introductions.

L14. Annex 12.16.1. Financial Services Committee. The authority of each Party responsible for financial services is: for the DR, the DR Central Bank in consultation with the Superintendency of Banking, the Superintendency of Insurance, the Superintendency of Securities and the Superintendency of Pensions, as appropriate.

M. Chapter Thirteen. Telecommunications

M1. Scope and Coverage (article 13.1). This Chapter applies to:
(a) Measures adopted or maintained by a Party relating to access to and use of telecommunications services;
(b) Measures adopted or maintained by a Party relating to the obligations of suppliers of public communications services;
(c) Other measures relating to public telecommunications networks or services; and
(d) Measures adopted or maintained by a Party relating to the supply of information services.

M2. Access to and use of public telecommunications services. Each Party shall ensure that enterprises of another party have access to, and use of, any public telecommunications service offered in its territory or across its borders, including leased circuits, on reasonable and nondiscriminatory conditions.

Each Party shall ensure that such enterprises are permitted to:
(a) Purchase or lease, and attach terminal or other equipment that interfaces with a public telecommunications network;

(b) Provide services to individual or multiple end users over leased or owned circuits;
(c) Connect owned or leased circuits with public telecommunications networks and services in the territory, or across the borders, of that party or with circuits owned or leased by another person;
(d) Perform switching, signaling, processing and conversion functions; and
(e) Use operating protocols of their choice.

Each Party shall ensure that enterprises of another Party may use public telecommunications services for the movement of information in its territory or across its borders and for access to information contained in databases or otherwise stored in machine readable form in the territory of any party.

Each party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services, other than that necessary to safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their networks or services available to the public generally; or protect the technical integrity of public telecommunications networks or services.

M3. Obligations Relating to Suppliers of Public Telecommunications Services (article 13.3)

M3a. Interconnection. (a) Each Party shall ensure that suppliers of public telecommunications services in its territory provide, directly or indirectly, interconnection with the suppliers of public telecommunications services of another Party.
(b) In carrying out subparagraph (a), each Party shall ensure that suppliers of public telecommunications services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end users of public telecommunications services and use such information only for the purpose of providing those services.
(c) Each Party shall grant its telecommunications regulatory body the authority to require public telecommunications suppliers to file their interconnection contracts.

M3b. Resale. Each Party shall ensure that suppliers of public telecommunications services do not impose unreasonable or discriminatory conditions or limitations on the resale of those services.

M3c. Number Portability. Each Party shall ensure that providers of public telecommunications services in its territory provide number portability to the extent technically feasible, on a timely basis and on reasonable terms and conditions.

M3d. Dialing Parity. Each Party shall ensure that suppliers of public telecommunications services in its territory provide dialing parity to suppliers of public telecommunications services of another Party, and afford suppliers of public telecommunications services of another Party access to telephone numbers and related services with no unreasonable dialing delays.

M4. Additional Obligations Relating to Major Suppliers of Public Telecommunications Services (article 13.4)

M4a. Treatment by major suppliers. Each Party shall ensure that major suppliers in its territory accord suppliers of public telecommunications services of another Party treatment no less favorable than such major suppliers accord to their subsidiaries, their affiliates or nonaffiliated service suppliers regarding: the availability, provisioning, rates or quality of like public telecommunications services; and the availability of technical interfaces necessary for interconnection.

M4b. Competitive safeguards. Each Party shall maintain appropriate measures for the purpose of preventing suppliers who, alone or together, are a major supplier in its territory from engaging in or continuing to engage in anticompetitive practices, including in particular: engaging in competition-stifling cross-subsidization; using information obtained from competitors with competition-stifling results; and not making available, on a timely basis, to suppliers of public telecommunications services technical information about essential facilities and commercially relevant information which are necessary for them to provide public telecommunications services.

M4c. Resale. Each Party shall ensure that major suppliers in its territory offer for resale, at reasonable rates, to suppliers of public telecommunications services of another party, public telecommunications services that such major suppliers provide at retail to end users who are not suppliers of public telecommunications services; and do not impose unreasonable or discriminatory conditions or limitations on the resale of such services.

M4d. Interconnection. Each Party shall ensure that major suppliers in its territory provide interconnection for the facilities and equipment of suppliers of public telecommunications services of another Party.

M5. Submarine cable systems (article 13.5). Each Party shall ensure reasonable and nondiscriminatory treatment for access to submarine cable systems (including landing facilities) in its territory, where a supplier is authorized to operate a submarine cable system as a public telecommunications service.

M6. Independent regulatory bodies and government-owned telecommunications suppliers (article 13.7). Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunication services. To this end, each party shall ensure that its telecommunications regulatory body does not hold a financial interest or maintain an operating role in any such supplier.

M7. Settlement of Domestic Telecommunications Disputes (article 13.12)

M7a. Recourse to Telecommunications Regulatory Bodies. Each Party shall ensure that enterprises of another Party may seek review by a telecommunications regulatory

body or other relevant body to settle disputes regarding the Party's measures relating to a matter addressed in articles 13.2 through 13.5.

Each Party shall ensure that suppliers of public telecommunications services of another Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable and publicly available period of time after the supplier requests interconnection by a telecommunications regulatory body, to settle disputes regarding the terms, conditions and rates for interconnection with such major supplier.

M7b. Reconsideration. Each Party shall ensure that any enterprise that is aggrieved or whose interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may petition the body to reconsider that determination or decision. No Party may permit such a petition to constitute grounds for noncompliance with the determination or decision of the telecommunications regulatory body unless an appropriate authority stays such determination or decision.

M7c. Judicial review. Each Party shall ensure that any enterprise that is aggrieved or whose interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may obtain judicial review of such determination or decision by an independent judicial authority.

M8. Transparency (article 13.13). Further to articles 18.2 (Publication) and 18.3 (Notification and Provision of Information), each Party shall ensure that the rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and end user tariffs filed with its telecommunications regulatory body are promptly published or otherwise made publicly available.

ACTION. This chapter provides greater authority to INDOTEL as a regulatory body to be able to authorize: resale […] new services of INDOTEL, although this is contemplated in legislation currently in force. The Treaty provides additional potential for INDOTEL to regulate number portability as well as to facilitate interconnection so that companies may provide long distance and other services. The Treaty also grants authority to INDOTEL to apply and rule on specific commitments in this Agreement. It is essential that INDOTEL organize training workshops that address the new perspectives provided in the Treaty.

There was an exchange of letters of understanding between the Parties with regard to the provisions of Law Number 153-98. The effects and scope of the side letter on this Agreement should be reviewed.

N. Chapter Fourteen. Electronic Commerce

N1. Digital Products (article 14.3). No Party may impose customs duties, fees or other charges on or in connection with the importation or exportation of digital products by electronic transmission.

No Party may accord less favorable treatment to some digital products transmitted electronically than it accords to other like digital products transmitted electronically:

(a) On the basis that: the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned or first made available on commercial terms outside its territory; or the author, performer, producer, developer, or distributor of such digital products is a person or another Party or non-party, or

(b) So as otherwise to afford protection to the other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned or first made available on commercial terms in its territory.

No Party may accord less favorable treatment to digital products transmitted electronically:

(a) That are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of another Party than that it accords to like digital products transmitted electronically that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of a non-Party; or

(b) Whose author, performer, producer, developer, or distributor is a person of another Party than that it accords to like digital products transmitted electronically whose author, performer, producer, developer, or distributor is a person of a non-Party.

N2. Transparency (article 14.4). Each Party shall publish or otherwise make available to the public its laws, regulations and other measures of general application that pertain to electronic commerce.

O. Chapter Fifteen. Intellectual Property

O1. General Provisions (article 15.1). Like the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, this article reaffirms that the obligations in this Chapter are minimal, i.e., the Parties may implement in their national legislation broader protections and observations.

ACTIONS. The DR should ratify, prior to the entry into force of the Treaty, the Agreements identified in article 15.1 paragraphs 2 through 5 and should make every reasonable effort to ratify the agreements indicated in article 15.6, if it has not yet done so.

The DR maintains its existing rights and obligations under the TRIPS Agreement and the Agreement on Intellectual Property finalized or administered under the WTO, of which it is a member.

The DR undertakes the obligation of National Treatment as regards all categories of intellectual property in the Chapter vis-à-vis the other Parties, except for the revocation of article 15.1 paragraphs 9 and 10.

The SEIC, together with the National Industrial Property Office (ONAPI) and the Copyright Directorate, should make efforts to ensure the appropriate ratification of any agreements for which ratification is still pending.

Article 15.1.14 establishes the obligation of Transparency with respect to all laws, regulations and procedures relating to the protection of or compliance with intellectual property rights.

Article 15.1.16 defines a series of priorities to be carried out within the framework of the Committee on Trade Building Capacity.

DR authorities should prepare a work plan that provides for the participation of the DR in such projects, with implementation [of that work plan] to begin with the entry into force of the Treaty.

O2. Trademarks. Article 15.2 establishes provisions regarding trademarks. The DR is required to protect trademark rights, including the obligation to prevent third parties from using, without the consent of the trademark holder, identical or similar signs, including geographic indications, which might lead to possible confusion.

ACTION. The DR should create an electronic system for trademark application, processing and registration, together with an electronic database that is available to the public.

Obligations with regard to geographic indications (article 15.3) include the simplification of procedures for submitting applications or filing petitions, and transparency and provision of contact information to orient the public and […] petitions regarding their respective interests.

The DR should have in place appropriate procedures for settling disputes in cases of cyberpiracy.

Article 15.5 regulates obligations regarding copyrights and related rights, protection of which must not be for less than the life of the author, plus seventy years from his/her death, while article 15.5.4 (b) defines the term of the protection on a basis other than the life of a natural person, which is also for 70 years.

The Parties are required to apply the provisions set forth in article 18 of the Berne Convention and article 14.6 of the TRIPS Agreement to the subject matter, rights and obligations established in this article, and in articles 15.6 and 15.7 of this Chapter (obligations referring specifically to copyright and related rights, respectively).

Article 15.5.7 defines measures for providing appropriate legal protection and effective legal remedies against the circumvention of technological measures (as that term is defined in that Chapter) that authors, performers and producers of phonograms use in exercising of their rights, and the Parties agree to be subject to the remedies set forth in article 15.11.14 and, in addition, to establish criminal penalties for cases of wrongdoing.

Article 15.8 establishes the obligation to classify as crimes specific acts relating to devices or systems for decoding an encoded program-bearing satellite signal without the authorization of the legitimate distributor of that signal […] the wrongful reception of an encoded satellite signal.

O3. Patents (article 15.9). No changes are apparent as a result of the Treaty in the current process for obtaining and registering patents under Law 20-00 nor as regards TRIPS obligations.

ACTION. Obligations are established by means of which each party, at the request of the holder of a patent, is required to adjust the term of the patent in order to compensate for unreasonable delays in the granting thereof, in accordance with the time limits and conditions defined in the article (3 or 5 years). In addition, paragraph (b) of this article defines the obligation, in appropriate cases, for a reinstatement of the term of the patent in order to compensate the holder for any unreasonable reduction in the effective term as a result of the process for approving the marketing of the product.

Measures relating to certain regulated products involve obligations related to approval for the marketing of new pharmaceutical products and agricultural chemicals, for cases in which the Party requests the submission of data not yet made public on safety and effectiveness.

A structure to streamline the procedure for obtaining patents should be created in the National Industrial Property Office in order to avoid unreasonable delays. DR legislation includes an in-depth examination system for conducting such examinations, although it requires a high level of professionalism in addition to high levels of time and economic resources. A system should be put in place that will operate in accordance with the demands of this Agreement. It is highly recommended that maximum use be made of all technical cooperation available.

O4. Obligation. The resulting obligation for the party is that it will not allow third parties who do not have the consent of the individual providing the information to market a product on the basis of: (1) the information and (2) the approval granted to the person submitting the information, for a period of at least five years for pharmaceutical products and ten years for chemical products, with the same provision applicable in the event that the evidence regarding the safety and effectiveness of such products refers to prior approval in another territory.

O5. Observations on Intellectual Property Rights (article 15.11)

O5a. Transparency. This article establishes obligations of transparency and due process with respect to judicial rulings or administrative decisions regarding intellectual property rights, in that they must be made in writing, contain relevant elements of fact and legal grounds, and be published or otherwise made available to the general public.

O5b. Civil and administrative procedures and remedies. The power of judicial authorities to order offenders to pay to the rights holder compensation plus attorney's fees, and for the authorities to authorize the seizure of the alleged offending products, is clearly established.

O5c. Special requirements related to measures at the border. Rights holders who initiate proceedings with the objective of having authorities suspend the shipment of presumed counterfeit brand goods or confusedly similar, or pirated, goods must submit sufficient proof to demonstrate the existence of a presumption of the violation of their intellectual property right.

O5d. Criminal procedures and remedies. Criminal procedures and penalties to be applied at least in cases of criminal falsification of trademarks or damaging piracy of copyrights or related rights on a commercial scale should be established; the general framework for sanctions and applicable measures to be guaranteed by each Party has been defined.

O5e. Limitations on the responsibilities of providers of goods and services. In order to ensure compliance procedures that will enable effective action to be taken, the Parties should include incentives and limitations in their legislation.

O5f. Obligations. In accordance with the obligation undertaken under article 15.12, the DR agrees to implement certain provisions for a period of time not to exceed the periods of time identified in this article and its component paragraphs, beginning as of the entry into force of the Treaty:

Term of 70 years for the protection of a copyrighted work. Article 15.5.4. National Copyright Office (ONDA). –**SIX MONTHS–**

Issuance of decree-laws, ordinances or regulations to regulate the acquisition or administration of government agency computer programs in order to avoid violations by such agencies of intellectual property rights. Article 15.5.9 **–ONE YEAR–**

To provide for adjustments to the term of patents in order to compensate for unreasonable delays and to reinstate the term of the patents covering any pharmaceutical product for an unreasonable reduction in the effective term of the patent as a result of the marketing approval process. [Article] 15.9.6. **–ONE YEAR–**

To allow trademarks that include collective, certification and sound marks, as well as geographic indications and scent marks. Article 15.21 –**18 MONTHS–**

To include in the grounds for denying protection or recognition of a geographic indication the causes of confusion relating to a brand name requested or registered or other persistent brand name. Article 15.3.7. **–TWO YEARS–**

To offer legal incentives for service providers to collaborate with copyright holders with regard to the unauthorized storage and transmission of copyright-protected materials and include in national legislation […] to limit the scope of the remedies against service providers for violations that are beyond their control and that have not been ordered or initiated by them. Article 15.11.27.

To provide adequate legal protection and effective remedies against the circumvention of effective technological measures. Article 15.5.7 –**THREE YEARS–**

To define exceptions to the measures that implement the legal protection defined in Article 15.5.7 (a) **–THREE YEARS–**

To establish exceptions to any of the measures referred to in article 15.5.7 (a) for legally authorized activities performed by employees, agents or government contractors to implement the law, intelligence, essential safety or similar governmental purposes. Article 15.5.7 (f) **–THREE YEARS–**

ACTION. A study should be performed and action taken to include the measures recommended in this Chapter in national legislation. In addition, steps should be taken to increase the awareness of the judicial branch with regard to the obligations undertaken by the DR under this Chapter, in order to ensure the effective implementation of measures to provide protection against violations of intellectual property [rights].

O6. Procedures and remedies concerning broadcast or cable transmissions or retransmissions in the DR. (Annex 15.11). The DR undertook the specific obligation in Annex 15.11 to combat illegal transmissions or retransmissions, toward which end the active participation of ONDA and INDOTEL will be required. In addition to any actions that might be initiated by rights holders, the Annex provides that ONDA may act under its own authority and that it must be provided with sufficient resources to carry out its assigned duties.

P. Chapter Sixteen. Labor

P1. Statement of Shared Commitment (article 16.1). The parties reaffirm their obligations as members of the International Labor Organization (ILO) and their commitments undertaken by virtue of the ILO Declaration on Fundamental Principles and Rights at Work [as revised] (1998) (ILO Declaration).

The Treaty recognizes the right of the DR to adopt or modify its own labor laws, providing that they are consistent with internationally recognized labor rights.

P2. Procedural Guarantees and Public Awareness (article 16.3). This article defines commitments of the parties related to procedures carried out before tribunals involving labor issues, due process, transparency, penalties, appeal of final rulings and public awareness of labor legislation.

P3. Institutional Arrangements (article 16.4). The Labor Affairs Council was established and will be made up of cabinet-level representatives from the parties or their equivalents, or their designees.

The first meeting of the Council will take place within the first year following the entry into force of the Treaty.

ACTION. There are obligations for the DR to designate a unit within the Ministry of Labor to serve as point of contact with the other parties and with the general public for carrying out the work of the Council, including coordination of the Labor Cooperation and Trade Capacity Building mechanisms.

According to article 16.4.4, the DR may create a consultative or advisory National Labor Committee, or consult with a previous existing committee, to include representatives of labor and business organizations.

The Ministry of Labor, labor organizations and business sectors should coordinate efforts to organize their participation in this type of mechanism.

A special unit should be created for this purpose within the Ministry.

P4. Labor Cooperation and Trade Capacity Building Mechanism (article 16.5). This article establishes the Labor Cooperation and Trade Capacity Building Mechanism, which will provide opportunities for technical cooperation training that will strengthen and be consistent with national programs, development strategies and country priorities. Accordingly, Dominican authorities should create a plan to take advantage of all cooperation available.

(Annex 16). The Labor of Affairs Council, working through the contact point of each party, will coordinate the activities of the Labor Cooperation and Trade Capacity Building Mechanism. The contact points should meet within six months following the entry into force of the Treaty and subsequently as frequently as necessary.

P5. Cooperative Labor Consultations. The DR has obligations to address any consultations requested by the other parties to the Treaty. In the event that the consultations fail to resolve the issue, a consulting party may request that the Council be convened.

Only if the issue refers to whether one party is complying with its obligations in accordance with article 16.2.1 (a) and the parties have failed to resolve [the issue] within a period of 60 days following submission of the request for consultation, may the requesting party resort to the dispute settlement procedure (Chapter XX).

The DR undertook no labor obligations with regard to the dispute settlement procedure for issues other than those discussed in article 16.2.1 (a)

P6. List of Labor Rosters. Within six months subsequent to the entry into force of the Treaty, a roster of up to 28 individuals will be established to act as panelists in disputes arising under article 16.2.1 (a). Up to three nationals of the DR may be included on this list. Labor panelists will be appointed by consensus.

The rosters of panelists will remain in effect for a minimum of three years and will continue in force until the parties establish a new roster.

Q. Chapter Seventeen. Environment

Q1. Levels of Protection (article 17.1). The parties reaffirm their rights to establish their own level of environmental protection.

The Treaty recognizes the right of the DR to adopt or modify its environmental laws and policies, but this article requires that the latter provide and encourage high levels of environmental protection. Consequently, the purpose of paragraph 2 of this article is to ensure that each party will not waive or otherwise revoke the protection provided by legislation, as a means of encouraging trade or investment with another party.

Q2. Procedural Matters (article 17.3). The purpose of the obligations under this article is to ensure that each party guarantees that judicial, quasi-judicial or administrative proceedings are, in accordance with legislation, available to sanction or remedy violations of its environmental laws.

In addition to including provisions related to due process, the article defines, in accordance with legislation […] violations of environmental law, which include claims for damages, sanctions or remedies, and precautionary measures.

Q3. Environmental Affairs Council (article 17.5). This article establishes the Environmental Affairs Council, consisting of cabinet-level or equivalent representatives of the parties or their designees.

The first meeting of the Council will take place within the first year following the entry into force of the Treaty.

ACTION. There exists a requirement for the DR to designate an office within the appropriate Ministry to serve as contact point.

There also exists a requirement to convene a new Council or Committee, or a previously existing national Consultative Council or Advisory Committee, to be made up of members of the general public, including representatives of the country's business and environmental organizations, so that the latter can present their viewpoints on issues relating to the implementation of this chapter (article 17.6)

Q4. Communications relating to Application of the Environmental Legislation (article 17.7)

ACTION. By virtue of this Chapter, the DR is required to carry out an exchange of letters or other type of agreement to be reached by the parties, in accordance with footnote 1 of the article, for the purpose of designating a Ministry or other approved body (Secretariat) of the Treaty. The DR is required to allow any person of a Party to send communications alleging noncompliance with the effective application of its environmental legislation for consideration by the Secretariat and for preparation of the case file containing the facts of the case (article 17.9). Such matters may be submitted by the Secretariat to the Council and the Council may provide recommendations to the Environmental Cooperation Commission (ECA) […] the governments of the United States, and the other parties, including the DR.

This Commission plays a central role with regard to the objective of environmental cooperation outlined in article 17.9 and Annex 17.9.

Q5. Collaborative Environmental Consultation. The DR is required to address any consultations requested by the other parties of the Treaty. Only if the matter refers to whether one party is complying with its obligations in accordance with article 17.2.1 (a) and the parties have failed to resolve the matter within a period of 60 days subsequent to the delivery of the request for consultation, may the requesting party resort to the dispute settlement procedure (chapter 20).

Q6. Environmental Rosters. Within six months subsequent to the entry into force of this Agreement, the DR is required to establish a roster of up to 28 individuals to act as panelists in disputes arising under article 17.2.1 (a). This roster may include up to three nationals of the DR. Labor panelists will be appointed by mutual agreement and may be reelected.

Q7. Relationship to Environmental Agreements (article 17.12). This article is exhortative in nature, in that, in accordance with the Chapter dealing with the Environmental Cooperation Agreement (ECA), the Parties will mutually support the environmental agreements to which they are all party, including trade agreements.

ACTION. The Ministry of Environmental and Natural Resources should carry out an institutional strengthening program to enable it to prevent and sanction violations of Law 64-00 and the provisions of this Chapter. It should carry out a program with both the private and public sectors geared to implementing environmental protection programs.

In addition, it should create a special unit within the Ministry for dealing with DR-CAFTA matters.

R. Chapter Eighteen. Transparency

R1. Contact Points. The DR is required to designate, within 60 days of the entry into force of the Treaty, a contact point to facilitate communications between the parties on any matter covered by the Treaty.

R2. Publication (article 18.2). This article does not establish specific time limits, but the essence of the article is that the DR is required to publish its laws, regulations, procedures and administrative rulings of general application referring to any matter covered in the Treaty, and in particular to publish in advance any measure that it proposes to adopt, and provide an opportunity for interested individuals and parties to make observations on the measures being proposed.

R3. Notification and Provision of Information (article 18.3). Although this obligation is exhortative in nature, it is linked to the transparency obligation set forth in the Chapter.

R4. Administrative Proceedings (article 18.4). These procedures are aimed at ensuring due administrative process as regards the interests and rights of the parties to the Treaty, consistent with the measures mentioned in article 18.2.

R5. Review and appeal (article 18.5). These provisions are aimed at reaffirming the due process and impartiality of administrative rulings in order to ensure the existence of recourse to tribunals or to judicial or administrative procedures, for the timely review or, when justified, remedy of definitive administrative actions related to matters covered under the Treaty.

These provisions in no way imply an obligation to create special bodies or agencies other than those pertaining to the national administrative or judicial system.

ACTION. The Parties should adopt or maintain legislative or other measures necessary to classify as crimes in their national legislation, in matters affecting international trade or investment […] that link any individual or public official to the actions specified in paragraphs a) and b) of the article. Although it doesn't mention it, the article includes provisions, limited to international trade and investment, taken from the International Convention on Corruption, which is broader in scope. That objective is also implicitly ratified in article 18.9, on Cooperation in International Forums.

Strengthen the Corruption Prevention Department in the areas highlighted in this Chapter and in the Treaty.

S. Chapter Nineteen. Administration of the Agreement and Trade Capacity Building

ACTION. This Chapter establishes the Free Trade Commission to be made up of cabinet-level representatives of each Party or their designees, as stipulated in Annex 19.1. The DR designated the Minister of Industry and Commerce to perform this function.

This Commission will be the highest ranking body and will take on functions involving supervision over implementation of the Treaty and over the committees or work groups established, in addition to serving as a dispute settlement body and an entity to take cognizance of any matter affecting the functioning of the Treaty.

In addition to the functions set forth in paragraph 2 of this article, the Commission will have the authority to modify the tariff elimination schedules, the Rules of Origin and the Common Guidelines, and may issue interpretations of the provisions of this Treaty. The Commission will establish its rules and procedures, for which no time limit is established.

S1. Tasks. Since the Commission is the highest ranking authority among the various Treaty bodies, and since the Minister of Industry and Commerce is the official who will represent the DR on the Commission, it would be prudent for there to exist an interinstitutional mechanism to support the participation of the Minister in these tasks and at the same time to create a link with the country's goods and service producing sectors.

S2. Free trade agreement coordinators (article 19.2). The Vice-Minister of Industry and Commerce responsible for Foreign Trade was designated as coordinator for the DR.

S3. Administration of dispute settlement proceedings (article 19.3). The DR undertakes the obligation to designate an office to provide administrative support to the panels established under Chapter Twenty (Dispute Settlement) and to perform such other functions as the Commission may direct. It must also notify the Commission as to the domicile of its designated office.

No time limit was specified in this regard, but it is apparent that compliance with this obligation must take place immediately following the entry into force of the Treaty.

The DR should have available the budget allotment necessary to cover the operating and other costs of the office, as well as the honoraria to be paid to panelists and experts.

S4. Section B Trade capacity building. This article establishes a Committee on Trade Capacity Building, consisting of representatives of each Party.

The operating framework for the Committee is outlined in paragraph 3 of this article. The Committee is to meet at least twice yearly and may establish the terms of reference for its operations.

This article also establishes an initial working group for customs administration and trade facilitation.

ACTION. The DR should develop its strategic plan for taking advantage of technical cooperation.

In addition, it should define national participation in the group on customs administration and trade facilitation, in view of the high level of priority assigned to this subject.

T. Chapter Twenty. Dispute Settlement

T1. Choice of forum (article 20.3). When the DR is a complaining party with respect to this Treaty and another free trade agreement to which the disputing parties are party or the WTO Agreement, the complaining Party may nevertheless select the forum in which to settle the dispute.

T2. Consultations (article 20.4). The DR is required to address the consultations requested by the other Parties to the Treaty, which must in addition be open to other parties not directly involved in the dispute.

T3. Commission – Good offices, Conciliation and Mediation (article 20.5). If the Parties fail to settle the matter through consultations, they may invoke the Commission, within the time limit specified in this article, paragraphs (a) through (c).

T4. Request for an Arbitral Panel (article 20.6). If the consulting Parties fail to resolve the matter within the time limits specified in this article, they may request in writing the establishment of an Arbitral Panel.

T5. Roster (article 20.7). No later than six months following the entry into force of the Treaty, the parties will establish and maintain a roster of up to seventy individuals who are willing and able to serve as panelists. Up to eight members of the roster may be nationals of the DR.

ACTION. Steps should be taken to organize the mechanism by means of which the DR panelists will be selected to make up this general roster, as well as those that will serve as panelists in the areas of Financial, Labor and Environmental Services.

T7. Rules of procedure (article 20.10). Model Rules of Procedure must be established by the time of the entry into force of this Agreement.

T8. Implementation of final report (article 20.15). The disputing parties agree to abide by the rulings and recommendations of the panel. In the event of noncompliance,

the provisions set forth in articles 20.16 and 20.17 dealing with the suspension of benefits and noncompliance with certain disputes are applied […] may resort to the Compliance Review procedure (article 20.18).

ACTION. The DR should take advantage of technical cooperation for training in this area.

T9. Alternative measures for trade dispute settlement (article 20.22). The first paragraph of this article is exhortative in nature as it encourages the parties to promote and facilitate the use of arbitration as an alternative means to dispute settlement.

This article establishes the requirement that the Parties have in place appropriate procedures to ensure compliance with arbitration agreements and recognition and implementation of arbitral rulings. The Parties are in compliance with this obligation if they are Parties to or abide by the provisions of the 1958 United Nations Convention on Recognition and Implementation of Foreign Arbitrational Rulings, or the 1975 Inter-American Convention on International Trade Arbitration.

The DR has ratified both conventions, and accordingly is in compliance with the requirements set forth in this article.

ACTION. Due to the importance of the subject of arbitration, this matter should be studied in depth, taking advantage of all technical cooperation available.

The appropriate authorities and the private sector should jointly create a mechanism for studying the advisability of the DR's adopting legislation on international reconciliation and arbitration, in accordance with model laws available from UNCITRAL.

T10. Annex 20.17. This Annex defines the adjustment to the inflation formula for monetary contributions, and also stipulates the basic initial amount, which is US$15 million.

U. Chapter Twenty-one. Exceptions

U1. General Exceptions (article 2.11). Incorporated into and made a part of this agreement are article XX of the GATT 1994, for purposes of Chapters Three through Seven, and article XIV of the WTO Service Agreement (GATS), for purposes of Chapters Eleven, Thirteen and Fourteen. The article establishes by extension the national treatment obligations in tax matters that are necessary to render effective article 3.2 (National Treatment). Except as provided in this article and specified in detail in paragraphs 4 (a) and (b), 5 and 6, no provision of the Treaty shall be applied to tax measures.

U2. Balance of payments measures on trade in goods (article 21.4). This article ratifies the obligation that, when one Party determines to impose measures for balance of payment purposes, it shall do so only in accordance with that Party's rights and

obligations under the GATT 1994 and related declarations adopted within the framework of the WTO. For purposes of this chapter, the competent authority designated by the DR is the Undersecretary of Finance.

U3. Task. The appropriate authority should identify those measures relating to fees other than tariffs, including duties, special measures and others, which have balance of payments implications, so that those measures can be made consistent with the requirements of the WTO, as identified in this Chapter.

V. Chapter Twenty-two. Final Provisions

V1. Amendments (article 22.2). The Treaty may be amended if the Parties so agree, subject to the requirements specified in this article.

V2. Amendments to the WTO Agreement (article 22.3). If any provision of the WTO Agreement that the Parties have incorporated into this agreement is amended, there exists the obligation for consultation among the Parties in order to amend the relevant provisions of the Treaty.

V3. Entry into force (article 22.5). The Treaty will enter into force once the United States and at least one or more of the other signatories provide such [sic] notification in writing, on the date to which they subsequently agree. Two years after the entry into force, the Parties who have not done so may no longer do so, and will accordingly be excluded from the Treaty.

V4. Accession (article 22.7). The Treaty is open for accession by other countries.

V5. Withdrawal (article 22.7). The DR may withdraw from the Treaty after the Treaty has entered into force for the DR. Such withdrawal will become effective six months following written notice, unless the Parties agree to a different period.

SECTION III

SCHEDULE OF GOVERNMENT ACTIONS

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A. Prior to the Entry into Force

1. Congress should ratify the Agreement and the Executive Branch should approve it within a period of 8 days following ratification. In order for the Treaty to enter into force at the same time for the DR and the United States, the DR must submit its ratification instrument to the OAS so that, by mutual agreement, these two countries may proceed to exchange notes regarding the ratification instrument on the date agreed upon for entry into force. These actions fall within the purview of the Executive Branch.

2. If because of delay the DR fails to be included in the group of countries that will constitute the originating parties of the Treaty (Originating Parties of the Entry into Force of the Agreement), it should submit to the OAS its ratification instrument within a period of 90 days prior to the entry into force of the Agreement for the DR.

3. The DR has a period of 2 year for this process which, after taking into account the 90-day period, leaves an actual period of 21 months prior to the expiration of the two-year period. Once this period has expired, the DR will lose all rights to become a Party to the Treaty, except as the Parties agree otherwise.

4. Reimbursement of customs duties on textile or apparel goods.

5. Reports on television piracy.

6. Steps to ensure adherence by the DR to the WTO agreement on information technology (IT) products.

B. At the Time of Entry into Force

1. The DR must eliminate all duties other than those existing in their tariff elimination commitments.

2. Common Guidelines for Rules of Origin. Work jointly with the other Parties to the Agreement to develop guidelines for the application of the procedures and formalities for the presentation on origin requirements.

3. The DR undertakes the commitment of transparency and notification for each of the obligations so requiring. This part of the Agreement, analogously with article XX of the GATT 1994, calls for a comprehensive publication, notification, and due process obligation for all matters included within the Treaty. Government institutions involved in the Treaty should be instructed to carry out this ongoing task in coordination with the SEIC.

4. Model Rules of Procedure for Dispute Settlement. Jointly with the other Parties to the Agreement, steps should be taken to prepare the norms and procedures that will serve to guide the operation of the dispute settlement mechanism.

5. Rules and procedures of the Free Trade Commission. This commission, which is responsible for management of the Treaty and whose DR representation is the SEIC, should establish its norms, guidelines and operating procedures. The DR has already implemented two [similar] agreements and accordingly has experience in this area.

6. Mechanism for reassigning amounts not utilized within quota. The SEA, in coordination with the SEIC, is responsible for developing the application mechanism [in cases where] the country does not charge quotas.

7. Tariff eliminations in accordance with the schedules in Annex 3. The SEIC should deliver the appropriate notifications to the DEF, the DGA and the SEA in order to ensure proper compliance with the tariff eliminations included in these schedules.

8. Mechanism for administering and implementing tariff quotas for agricultural goods. The SEA should ensure the designation of the responsible individuals who will make up the administrative mechanism. The country already has experience managing the quotas established in the WTO Technical Rectification.

C. Three Months Subsequent to the Entry into Force

1. Establishment of the Negotiating Group to develop an appeals body for the Chapter on Investment.

D. Six Months Subsequent to the Entry into Force

1. Rosters of panelists (General, Financial Services, Labor, Environmental). The DR is required to submit possible candidates and a proposed structure for the arbitration systems established by virtue of the Treaty.

2. Implementation of copyright protection for a period of 70 years. The National Copyright Office (ONDA) should review the period of protection for countries that are Parties to the Treaty and request any required legislative changes through the Executive Branch or the National Senate.

E. One Year Subsequent to the Entry into Force

1. Clearance of goods in compliance with customs legislation and, to the extent possible, within a period of 48 hours subsequent to arrival of the goods.

2. Clearance of goods at the point of arrival, with no temporary transfer to warehouses or other areas.

3. Withdrawal of goods from customs by importers, prior to the final determination of applicable customs duties, taxes and fees, and without prejudice to such determination.

4. Issuance of decrees, laws, ordinances or regulations to actively govern the acquisition and administration of computer programs so that all central-level government agencies use only authorized computer software.

5. Adjustment of the term of patents for unreasonable delays in approval. ONAPI should be subject to review in order to prevent such delays from occurring; in addition, an action plan should be prepared in order to compensate for any such delays in the term of patents.

6. Negotiations between the DR and the countries of Central America regarding tariff treatment for certain products.

7. Negotiations between the DR, Costa Rica and Nicaragua regarding levels of agricultural activation for certain products.

F. Eighteen Months Subsequent to the Entry into Force

1. Inclusion of collective, certification and sound marks, as well as geographic indications and scent marks.

G. January 1, 2007

1. Provision of cost-based interconnection.

H. Two Years Subsequent to the Entry into Force

1. Grounds for denying protection or recognition of a geographic indication.

2. Compliance procedures that provide for effective action against any instance of copyright violation.

3. Publication, including on the Internet, of customs legislation, regulations and administrative procedures of a general nature.

4. Designate or maintain one or more points of consultation for dealing with the concerns of individuals interested in customs matters, and make available on the Internet information regarding the procedures for making such consultations.

5. Adopt or maintain risk management systems.

6. Adopt or maintain expedited customs procedures for express shipments, by maintaining appropriate customs control and selection procedures.

7. The transitory Rules of Origin between the DR and the United States expire. Some specific Rules of Origin expire, as requested by the DR, as a result of which a strategy should be developed to enable the Trade Commission established under the Treaty to take cognizance of these rules and thus ensure their continued existence; in addition, efforts should be made to work with the private sector with regard to these rules so that, if necessary, production structures can be modified accordingly.

8. Make available to the general public any generally applicable judicial or administrative ruling related to government procurement.

9. Government purchases. Inclusion of an indication in future advices of procurement that the procurement is covered by the DR-CAFTA Chapter on Government Procurement. A period of 40 days for submission of bids. The DR should provide no less than 30 days for the process of bid submission. Preparation of written reports regarding awarding of contracts by direct contracting. Publication of the advice of contract award. Establishment and maintenance of procedures for declaring a provider ineligible to participate.

10. Application of measures regarding financial services between the DR and Guatemala.

11. Application of measures regarding financial services between the DR and the countries of Central America.

I. Three Years Subsequent to the Entry into Force

1. **Application for preferential treatment.** Application of preferential treatment by the importer by means of an electronic certification of origin or reasonable confidence in the importer's information.

2. **Customs automation.** Measures aimed at providing appropriate legal protection and effective legal remedies against circumvention of technological measures and at restricting unauthorized actions regarding their works, performances and phonograms. Establish criminal procedures and sanctions. Definition of exceptions.

J. December 31, 2009

1. Elimination of the exemption of customs duties contingent on compliance with performance requirements. The revision of the Free Trade Zone law should be ready by this date, in order to comply with this mandate.

K. Four Years Subsequent to the Entry into Force

1. Adoption of the Law on Collective Investment Systems.

L. Five Years Subsequent to the Entry into Force

1. Negotiation of free trade agreements with Mexico and Canada.

M. Commitments for Which No Time Period Was Established

1. Initiation of consultations with a view toward determining the viability and advisability of including in the coverage provided by the Chapter on Government Procurement the construction of public works and the concession of public works in general between the DR and the countries of Central America.

2. Rules and procedures of the Free Trade Commission.

SECTION IV
ACTION PLAN AND PRIORITY ACTIONS

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This section lists the priority actions that the Government will need to implement, broken down by chapter.

A. Chapter Three. Obligations regarding National Treatment and Market Access for Goods

A1. Commitments of Inaction. The DR, through SEREX, should take the steps necessary to ensure that the country complies with the WTO Agreement on Information Technology products, in order to proceed with the elimination of tariffs on these products to which immediate duty free entry was granted under DR-CAFTA.

A2. Exemption of customs tariffs. A deadline of December 31, 2009 has been established for the elimination of conditioned tariffs. The National Free Trade Council, as well as the Dominican Association of Free Trade Zones and the SEIC, should proceed to do whatever is necessary to update Law 8-90.

A3. Article 3.8 paragraphs 6 y 7. This article contains the provisions that regulate the use of import restrictions tied to contractual relationships. The SEIC needs to instruct the DGA that these obligations do not allow it to apply precautionary restrictions to the entry of products by virtue of litigation brought within the framework of Law 73.

A4. Fees and administrative formalities. (Article 3.10). The fees and formalities provided for in this article should be limited to the approximate cost of the services provided, and should not constitute an indirect protection of national goods nor a tax on imports or exports for tax purposes. Accordingly, the Executive Branch, the National Congress, the SEIC, the SEF and the DGA have responsibilities in this area, and the Transitory Commission on Unfair Trade Practices and Safeguard Measures has responsibilities as regards antidumping, compensatory and safeguard rights, which, once adopted, must be applied by the DGA.

A5. Tariff quotas in agriculture. The SEA, the SEIC and their dependent agencies are responsible for the proper **administration and implementation of tariff quotas in agriculture** and for creating guidelines for applying and administering the quotas established in this Treaty, in addition to ensuring their consistency with commitments undertaken pursuant to the WTO Technical Rectification.

In negotiations carried out within the framework of the WTO, the United States has proposed the elimination of **Agricultural Export Subsidies**. Working through the Permanent Mission to the WTO and in consultation with the various sectors, SEREX should design an appropriate strategy for achieving the above-mentioned objective during the Doha Round.

A6. Agricultural safeguard measures. Responsibility for applying these measures falls to the SEA and its dependent agencies, which should create a set of regulations and organize their activities towards this end. It will also be necessary to coordinate activities with the SEIC and the National Commission on Unfair Trade Practices for this purpose.

National authorities, and particularly the SEA, should meet with the involved sectors and prepare an action plan for taking advantage of the monitoring and consultation opportunities provided by the **Committee on Agricultural Trade**, which must be established no later that 90 days subsequent to the entry into force of the Treaty.

A7. Reimbursement of customs tariffs on textiles and apparels as established in Article 3.20. The DR may opt to be excluded from this obligation, providing it delivers a written notification to the other Parties no later than 90 days prior to the entry into force of the Treaty, indicating that it will not comply with paragraph 1 of article 3.20. Another option is for the DR, within the above-mentioned time period, to notify that it will provide a benefit for textile or apparel goods imported into its territory that the importing and exporting Parties have agreed is equivalent to the benefits stipulated in paragraph 1. National authorities, and particularly the SEIC, the SEF and the DGA, should study this subject in order to make the appropriate recommendations.

A8. Textile safeguard measures (article 3.23). According to this procedure, these trade remedy measures may be applied (textile safeguard) only after an investigation conducted by the appropriate authority of the Party. The appropriate authority appointed by the DR under Chapter Eight of the Treaty is the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, instituted by virtue of Law 1-02 in January 2002. Decree 184, of March 2002, created a Transitory Commission.

The DR should organize its trade remedies mechanism so that the appropriate authority will be able to proceed to conduct investigations and apply appropriate measures, with these procedures to be aligned as per the requirements set forth in the WTO Safeguard Agreement, which have been incorporated into Law 1-02. These measures are applicable during the transition period.

A9. Customs cooperation (article 3.24). The provisions of this article encourage transparency and reporting to resolve any technical or interpretative difficulties or to discuss ways to improve customs cooperation as regards the application of this article. **The country's customs authorities should review and regularize the customs procedures so as to be able to exercise the rights and comply with the obligations set forth in this article.** They should also provide training for appropriate personnel.

A10. Technical Cooperation. A customs modernization program should be implemented by virtue of DR-CAFTA.

A11. Committee on trade in goods (article 3.30). This committee has jurisdiction to consider any matter under Chapters Three, Four or Five or the Treaty and to provide the Committee on Trade Capacity Building advisory assistance and recommendations on needs for technical assistance with regard to the above-cited chapter. The SEIC, as the national coordinating body, should program the participation of this Committee and work to maximize the benefits it provides. In addition, it should develop an interinstitutional coordination mechanism to deal with matters falling within the jurisdiction of this Committee. It would also be advisable to identify cooperation projects for the provision of technical assistance.

A12. National Treatment for importations and exportations (Annex 3.2). Customs authorities should put into place appropriate controls in order to comply with restrictions involving the DR (importation of automobiles and motorcycles, used household appliances, used clothing and nonworking vehicles). It would be advisable for the SEIC and national authorities to analyze this issue with a view toward identifying practical solutions that will enable US flag ships or vessels to be repaired in Dominican shipyards and so that the sanctions contained in such legislation can be excluded.

A13. Tariff elimination (Annex 3.3). The DR undertook the obligation to apply the elimination of customs tariffs in accordance with the schedule that forms a part of this Annex, based on the tariff elimination categories indicated therein. The SEIC and the SEF, working jointly with the DGA, should put in place appropriate mechanisms for monitoring, controlling and complying with these provisions and adopt the administrative measures and procedures necessary for that purpose.

A14. Special provisions for Central America and the DR (Annex 3.3.6). Appendix 3.3.6.4 provides a schedule of exceptions to Preferential Treatment. An understanding was reached in the sense that, one year following the entry into force of the Treaty, the DR and the countries of Central America will enter into negotiations as regards the above mentioned products, in order to reach an agreement on tariff treatment, except for the cases of sugar, tobacco, coffee, alcohol (except for ethyl alcohol) and beer, which are excluded from Preferential Treatment.

A15. Agricultural Safeguard Measures (Annex 3.15).

A15a. Safeguard measures between Costa Rica and the DR. Within a period not to exceed one year following the entry into force of the Treaty, Costa Rica and the DR should conclude negotiations as regards levels of activation of agricultural safeguard measures to be applied to originating chicken (tariff items 0207.13.91 and 0207.14.91) and milk (tariff items 0402.10, 0402.21 and 0402.29).

A15b. Safeguard measures between Nicaragua and the DR. Within a period not to exceed one year from the entry into force of the Treaty, Nicaragua and the DR should conclude negotiations regarding levels of activation of agricultural safeguards to be applied to originating chicken (tariff items 0207.13.91 and 0207.14.91).

B. Chapter Four. Rules of Origin and Origin Procedures

The DGA should carry out a comprehensive program of training on the subject of origin procedures and Rules of Origin. Chapter Four explains the methods for calculating the value of regional content, the value of materials and any adjustments.

B1. Request for Origin (article 4.16). The DR has a period of three years to request electronic certifications to be provided by importers and the same term for carrying out the more informal procedure described in article 4.16 (b) of the Treaty, regarding knowledge or reasonable belief. The article describes the requirements for producer or exporter certification.

This Chapter establishes obligations for the DGA with respect to exportations and requirements for record keeping, as well as with respect to verification of goods, which will be the responsibility of the [appropriate] authorities, toward which end current procedures should be strengthened and improved, taking into account in particular that the provisions of this article in no way reduce the authority of customs authorities to rule on matters submitted for their consideration, subject to substantiated criteria supporting their decision.

B2. Verification. National authorities, the SEIC, the SEF, the DGA and other appropriate agencies should be prepared to establish a working mechanism with regard to these Common Guidelines, inasmuch as the Treaty provides that the Parties will make every effort to do so as of the entry into force of the Treaty, and also as regards the framework for carrying out verifications of origin in accordance with article 4.20.1 (c). The obligations arising out of these chapters will require the comprehensive modernization of customs and trade facilitating procedures. *Toward this end, national authorities should submit a modernization project through the Committee on Trade Capacity Building, or under cooperation programs sponsored by multilateral agencies and organizations.*

C. Chapter Five. Customs Administration and Trade Facilitation

The DR should publish, including on the Internet, its customs legislation, regulations and procedures. This is a permanent and ongoing obligation during the life of the Treaty. In addition, the DR should designate or maintain one or more points of consultation for dealing with customs-related concerns. The SEIC, working jointly with the DGA, should put in place an action plan for such purposes.

C1. Clearance of goods. The DR's customs authority should adopt or maintain procedures to ensure the prompt clearance of goods, to the extent possible within 48 hours subsequent to their arrival. Customs authorities should also make every effort to employ information technologies that streamline procedures (article 5.3). It should adopt or maintain risk management systems for activities involving the inspection of high-risk goods, in order to simplify the clearance and movement of low-risk goods. The customs

authority is required to respect the confidential nature of information. Article 5.5 lists specific cooperation obligations relating to origin inquiries and origin procedures […] the Customs Valuation Agreement, as regards its laws and regulations, restrictions or prohibitions applicable to imports or exports, or such other matters as the Parties may agree to.

C2. Express shipments (article 5.7). The Parties are required to maintain expedited customs procedures for express shipments, in accordance with the conditions described in this article. The DR has a period of one year in which to comply with the obligations set forth in this article. The SEIC, in conjunction with the DGA and appropriate entities and sectors should prepare an appropriate action plan.

C3. Advance rulings (article 5.10). The customs authority or other appropriate authority should issue an advance ruling within a period of 150 days after receiving a request, providing that the requesting Party has provided all requisite information. The DGA and the SEIC should take note of these provisions in order to ensure their appropriate implementation.

After a period of one year, the DR is required to comply with the provisions of the following articles:

- 5.2.2 (b). Allow all goods to be withdrawn at their point of arrival.
- 5.2.2 (c). Allow the withdrawal of goods from customs prior to a final determination as regards customs duties, taxes and applicable fees, and without prejudice to such determination.

Within a period of two years, the DR is required to comply with the obligations set forth in the following articles:

- Article 5.1.1. Implement all publications involving customs.
- Establish points of consultation so that interested Parties have free access to information.
- The customs inspection office should concentrate on a system of inspection that emphasizes high-risk goods.
- Issue a determination regarding customs matters involving: classification, valuation, origin and other matters, prior to the importation of such goods into its territory.

The SEIC, working jointly with the cabinet, should prepare itself to identify initial priorities regarding capacity creation for the Work Group on Customs Administration and Trade Facilitation, which reports to the Committee on Trade Capacity Building.

D. Chapter Six. Affirmation of the SMP Agreement

D1. Committee on Sanitary and Phytosanitary Matters (article 6.3). The SEIC should coordinate an interdisciplinary work group for creating the Committee on Sanitary and Phytosanitary Matters, which should be in operation no later than 30 days following the entry into force of the Treaty. The appropriate authorities should conduct

an exchange of letters in which they identify their primary representatives to the Committee, and should work toward establishing terms of reference for the Committee. In Annex 6.3 (b), the DR identified the agencies from which it will designate representatives. In addition to functions of consultation, mutual cooperation and technical cooperation, the Committee will act as a monitoring entity for phytosanitary issues under the Treaty and is empowered to address bilateral or multilateral sanitary and phytosanitary matters with a view toward facilitating trade among the Parties.

These issues are particularly important for trade in agricultural products between the United States and the DR. In this regard, public and private sector entities should work in close cooperation to resolve all problems affecting mutual trade.

Efforts should be intensified to bring up to date all DR legislation and regulations governing these matters and to improve the corresponding implementation mechanisms. In general terms, the National Animal and Plant Health System should increase its levels of effectiveness and transparency.

During DR-CAFTA negotiations, areas were defined and steps were taken as regards the evaluation [and elimination] of barriers that would enable the DR to move forward on the principles of inspection, certification, analysis of the risk of pests and pre-inspection programs for the country's interested sectors, including meat products, fruits and vegetables. It would be appropriate for the authorities to establish goals that would enable the DR to take advantage of the new export opportunities provided by DR-CAFTA for exports to the United States, especially for a sector as sensitive as the Agriculture sector.

E. Chapter Seven. Technical Barriers to Trade

E1. Committee on Technical Barriers (article 7.8). The DR designated the SEIC's DICOEX to participate in coordinating this committee.

F. Chapter Eight. Trade Remedies

F1. Constitution of a Body. The appropriate body for applying trade remedies measures under Chapter Eight of DR-CAFTA is the Regulatory Commission on Unfair Trade Practices and Safeguard Measures, created by Law 1-02 or its replacement law. The Transitory Commission designated by means of Decree 184 of March 2002 fulfills this function on a temporary basis and is chaired by the SEIC. The Executive Branch should proceed to appoint the members of the Commission on Unfair Trade Practices and assign an appropriate budget for its operation.

F2. Administration of procedures relating to safeguard measures. The safeguard procedures set forth in this Chapter, as well as those in the WTO, require the existence of an appropriate national investigative authority to be responsible for the process of investigating and determining damage, as well as for applying safeguard measures. In

addition, to the extent provided for by national legislation, the rulings of that authority are subject to review by administrative tribunals.

Annex 8.7 lists the appropriate investigative authorities. For the DR, it is the Commission to Regulate Unfair Trade Practices and Safeguard Measures. Article 8.3.3 stipulates that the appropriate authority authorized by national legislation to carry out these procedures is to be provided with all resources necessary to facilitate compliance with its duties.

G. Chapter Nine. Government Procurement

G1. National review of provider claims (article 9.15). The SEF and other appropriate institutions should prepare implementing regulations and forms in accordance with the procedures set forth in the Treaty as regards the thresholds, time limits and publications established pursuant to this Chapter.

Technical cooperation to modernize the DR's government procurement procedures should be requested. The procurement and purchasing departments of the various state institutions covered should be the target of a comprehensive program of personnel training and technological modernization.

This Chapter is also particularly important as regards the commitments undertaken by the DR under the Inter-American Convention on Corruption, which requires that procedures involving government procurement of goods and services be carried out with the greatest possible degree of transparency.

H. Chapter Ten. Investment

H1. Submission of a claim to arbitration (article 10.16). Although there is no obligation for the DR to adhere to or ratify the Agreement on Dispute Settlement dated March 18, 1965 (ICSID) as regards investments between states and nationals of other states, national authorities should weigh the advantages and disadvantages of a decision by the DR to ratify that agreement.

Inasmuch as arbitration is one of the mechanisms included among the methods for settling differences under this Treaty, as well as under all other [similar] instruments ratified by the DR, national authorities should prepare a program to take advantage of technical assistance in this area.

I. Chapter Eleven. Cross-border Trade in Services

I1. Mutual Recognition (article 11.9). The DR, through the Autonomous University of Santo Domingo, the Ministry of Higher Education and Dominican professional associations, should detail, list and render transparent all steps involving the revalidation of licenses to practice the various professions in the DR.

I2. Specific commitments (article 11.13). Express Services (Courier). The Parties affirm that the measures effecting Express Services are subject to this Treaty. No Central American Party nor the DR may adopt or maintain any restriction on Express Services not in effect on the date of signing of this Treaty. Each will ensure that when its postal monopoly competes either directly or through an affiliated enterprise in the provision of express services beyond the scope of its monopolistic rights, such provider will not abuse its monopoly position to act within its territory in a manner inconsistent with the obligations of the Parties pursuant to articles 11.2, 11.3, 11.4, 10.3 (National Treatment) or 10.4 (Most-Favored-Nation Treatment). In addition, the Parties reaffirm their obligations pursuant to article VIII of the GATS.

NOTE. Subsequent to the signing of this Treaty, the DR may not impose any legislation restricting Express Services (Courier). The Dominican Postal Institute may not impose any type of new regulation that would involve restrictive practices targeting the above-mentioned sectors.

I3. Law Number 173. Specific commitments. As soon as possible, the DR should prepare a set of regulations to govern the proper application of the commitments undertaken pursuant to this Chapter. The SEIC established a commitment to the various sectors to prepare a set of regulations that would serve as guidelines in this regard. However, a draft law has already been submitted that would give such guidelines the force of law. It would be prudent to analyze the various elements of this draft law in order to avoid any inconsistency with the commitments undertaken pursuant to this Treaty.

J. Chapter Twelve. Financial Services

J1. Disputes involving investments in financial services (article 12.19). The public and private sectors should organize a work and consultation plan for negotiations to be conducted with each Central American Party regarding the measures identified in the Treaty's Financial Chapter, [since commercial relations] have been suspended between the DR and Central America for a period of two years. The DR should conduct studies with a view toward exploring the possibilities now open to it by virtue of the chapter on financial services in its relationship with Central America, in addition to taking better advantage of the United States financial services market. This chapter creates a committee that will allow the DR to submit for consideration by that body any matter of interest to it, and accordingly use of this mechanism should be maximized.

K. Chapter Thirteen. Telecommunications

K1. Transparency (article 13.13). This chapter provides increased authority to INDOTEL, as regulatory entity, to authorize the resale […] new services by INDOTEL, although this matter is [already contemplated] in legislation currently in force. The Treaty opens the door for INDOTEL to regulate number portability as well as to facilitate interconnection so as to allow companies to provide long distance and other services. The Treaty also authorizes INDOTEL to apply and rule on the specific commitments of

this Agreement. It is essential that INDOTEL organize training workshops covering the new prospects provided for in the Treaty.

L. Chapter Fifteen. Intellectual Property

L1. General provisions (article 15.1). The DR should ratify, prior to the entry into force of the Treaty, the following: the WIPO Treaty on Copyrights (1996) and the WIPO Treaty on Interpretation or Implementation and Monograms (1996).

If it has not already done so, the DR should ratify or accede to the following agreements prior to January 1, 2006: the Treaty on Patent Cooperation, as amended (1970); the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1980); and the International Agreement for the Protection of New Varieties of Plants (1991) (1991 UPOV Convention).

If it has not already done so, the DR should ratify or accede to the following agreements prior to January 1, 2008: the Agreement on the Distribution of Program-Bearing Satellite Signals (1974); and the Trademark Law Treaty (1994).

The DR maintains it existing rights and obligations pursuant to the TRIPS Agreement and the Agreement on Intellectual Property finalized or administered by the WTO, of which it is a member.

The DR assumes the obligation of National Treatment with respect to all categories of intellectual property listed in the Chapter vis-à-vis the other Parties, except for the revocation of article 15.1 paragraphs 9 and 10.

The SEIC, ONAPI and the Copyright Directorate should coordinate efforts to proceed with the appropriate ratification of any Agreements for which ratification is still pending.

Article 15.1.14 establishes the obligation of transparency with respect to all laws, regulations and procedures relating to the protection of, or compliance with, intellectual property rights.

Article 15.1.16 defines a series of priorities to be put into effect within the framework of the Committee on Trade Capacity Building. Dominican authorities should proceed to prepare a work plan detailing the DR's participation in such projects and in their implementation, beginning as of the entry into force of the Treaty.

L2. Trademarks. The DR should create an electronic system for trademark application, processing and registering, as well an electronic database to be made available to the general public.

Obligations regarding geographic indications (article 15.3) include the simplification of procedures for applications or petitions, and transparency and supply of contact information both to guide the public and facilitate the filing of requests involving their

respective interests. The DR should have in place appropriate procedures for settling disputes in cases of cyberpiracy.

Article 15.5 governs obligations regarding Copyright and Related Rights, protection of which must be for no less than the life of the author, plus seventy years from his or her death, while article 15.5.4 (b) defines the term of protection on a basis other than the life of a natural person, which is also 70 years.

The Parties are required to apply the provisions of article 18 of the Berne Convention and article 14.6 of the TRIPS Agreement as regards the subject matter, rights and obligations established in that article, and in articles 15.6 and 15.7 of this Chapter (obligations referring specifically to Copyright and Related Rights, respectively).

Article 15.5.7 includes measures for providing appropriate legal protection and effective legal remedies against the circumvention of technological measures (as that term is defined in the Chapter) that authors, performers and producers of phonograms use in exercising their rights, and the Parties agree to be subject to the remedies set forth in article 15.11.14 and, in addition, to establish criminal sanctions for cases of wrongdoing.

Article 15.8 establishes the obligation to classify as crimes specific actions related to devices or systems for decoding a codified program-bearing satellite signal without the authorization of the legitimate distributor of that signal […] the wrongful reception of an encoded satellite signal.

L3. Patents (article 15.9). This article establishes obligations pursuant to which each Party, at the request of a patent holder, must adjust the term of such patent to compensate for unreasonable delays in approval thereof, in accordance with the time limits and conditions defined in the article (three or five years). In addition, paragraph (b) of this article defines the obligation, as appropriate, to reinstate the term of a patent in order to compensate the holder for any unreasonable reduction in the effective term as a result of the process for approving the marketing of the product.

Measures involving certain regulated products refer to obligations concerning approval for marketing of new pharmaceutical products and agricultural chemicals, for cases in which the party requests the presentation of data regarding safety and effectiveness that has not yet been made public.

ONAPI should create a structure to streamline the procedure for obtaining patents, in order to avoid unreasonable delays. DR legislation creates a system providing for an in-depth examination [of patent applications]. This system requires that a high degree of professionalism be exercised in conducting such examinations, and in addition requires high levels of time and economic resources. A system should be implemented that would operate in accordance with the requirements of this Agreement, taking advantage of all technical cooperation available.

The obligation that results for the Party is that it will not allow third Parties who do not have the consent of the individual providing the information to market a product on the basis of: (1) the information, and (2) the approval granted to the individual submitting the information, for a period of at least five years for pharmaceutical products and ten years for chemical products. The same is applicable in cases where evidence relating to the safety and effectiveness of such products involves prior approval in another territory.

L4. Limitations on the responsibility of goods and service providers. In order to guarantee effective compliance procedures, the Parties should include in their legislation both incentives and limitations.

In accordance with the obligation undertaken pursuant to article 15.12, the DR agrees to implement certain provisions for a period not to exceed the periods set forth in this article and its paragraphs, beginning as of the entry into force of the Treaty:

Term of 70 years for the protection of a copyrighted work. Article 15.5.4. ONDA **–SIX MONTHS–**

Issuance of decree-laws, ordinances or regulations to regulate the acquisition or administration of government agency computer programs in order to avoid violations by such agencies of intellectual property rights. Article 15.5.9 **–ONE YEAR–**

To provide for adjustments to the term of patents in order to compensate for unreasonable delays and to reinstate the term of the patents covering any pharmaceutical product for an unreasonable reduction in the effective term of the patent as a result of the marketing approval process. [Article] 15.9.6. **–ONE YEAR–**

To allow trademarks that include collective, certification and sound marks, as well as geographic indications and scent marks. Article 15.21 –**18 MONTHS–**

To include in the grounds for denying protection or recognition of a geographic indication the causes of confusion relating to a brand name requested or registered or other persistent brand name. Article 15.3.7. **–TWO YEARS–**

To offer legal incentives for service providers to collaborate with copyright holders with regard to the unauthorized storage and transmission of copyright-protected materials and include in national legislation […] to limit the scope of the remedies against service providers for violations that are beyond their control and that have not been ordered or initiated by them. Article 15.11.27 –**TWO YEARS–**

To provide adequate legal protection and effective remedies against the circumvention of effective technological measures. Article 15.5.7 **–THREE YEARS–**

To define exceptions to the measures that implement the legal protection defined in Article 15.5.7 (a) **–THREE YEARS–**

To establish exceptions to any of the measures referred to in article 15.5.7 (a) for legally authorized activities performed by employees, agents or government contractors to implement the law, intelligence, essential safety or similar governmental purposes. article 15.5.7 (f). **–THREE YEARS–**

A study should be performed and action taken to include the measures recommended in this Chapter in national legislation. In addition, steps should be taken to increase the awareness of the judicial branch with regard to the obligations undertaken by the DR under this Chapter, in order to ensure the effective implementation of measures to provide protection against violations of intellectual property [rights].

M. Chapter Sixteen. Labor

M1. Institutional Structure (article 16.4). There exist obligations for the DR to designate a unit within its Ministry of Labor to serve as point of contact with the other Parties as well as with the general public, in order to carry out the activities of the Council, including coordination of the Labor Cooperation and Trade Capacity Building mechanism.

According to article 16.4.4, the DR may create a National Consultative or Advisory Labor Committee, or consult with an already existing committee, members of which should include representatives of labor and business organizations.

The Ministry of Labor, labor organizations and business sectors should coordinate efforts to organize their participation in this type of mechanism. A special unit should be created for this purpose within the Ministry.

N. Chapter Seventeen. Environment

N1. Council on environmental matters (article 17.5). This article establishes the Council on Environmental Matters, consisting of cabinet-level or equivalent representatives of the Parties, or their designees. The DR has the obligation to designate an office within the appropriate ministry to serve as contact point. It is also required to convene a new Council or committee, or an existing national consultative or advisory committee, to be made up of members of the general public, including representatives from business and environmental organizations, to present their viewpoints on matters involving the implementation of this Chapter. (Article 17.6)

N2. Communications relating to the application of environmental legislation (article 17.7). The DR should carry out an exchange of letters or other type of agreement to be reached by the Parties, in accordance with footnote 1 of the article, in order to name a Ministry or other appropriate entity (Secretariat) for the Treaty, pursuant to this Chapter. The DR is required to allow any person from one Party to submit communications alleging noncompliance in the effective application of the DR's environmental legislation, for consideration by the Secretariat and preparation of the

case file containing the facts of the case (article 17.9). Such matters may be submitted by the Secretariat to the Council, and the Council may provide recommendations to the ECA Commission between the governments of the United States and the other Parties, including the DR.

This commission plays a central role as regards the objective of environmental cooperation outlined in article 17.9 and in Annex 17.9.

N3. Definitions (article 17.13). The definitions provide additional detail and guidance regarding the obligations set forth in the Chapter. The Ministry of the Environment and Natural Resources should carry out a program of institutional strengthening so that the Ministry will be able to prevent and sanction violations of Law 64-00 and the provisions contained in this Chapter. It should also implement a program of environmental protection with the participation of the public and private productive sectors. In addition, the creation of a Special Unit within the Ministry for dealing with matters involving DR-CAFTA is recommended.

O. Chapter Eighteen. Transparency

O1. Section B Anticorruption (article 18.8). The Parties should adopt or maintain legislative or other measures necessary to classify as crimes in their national legislation, in matters affecting international trade or investment, [actions] that link any individual or public official [to] the actions specified in paragraphs a) and b) of the article. Although it does not mention it, the article incorporates provisions, on a scale limited to international trade and investment, taken from the International Convention on Corruption, which is broader in scope. This objective is also ratified implicitly in article 18.9, regarding cooperation in International Forums.

Strengthen the Corruption Prevention Department as regards the measures set forth in this Chapter and in the Treaty.

P. Chapter Nineteen. Administration of the Agreement and Trade Capacity Building

P1. Free Trade Commission. Annex 19.1 establishes the Free Trade Commission, to be made up of cabinet-level representatives of each Party, or their designees.

The DR designated the Ministry of Industry and Commerce to perform this function. This Commission is the Treaty's highest ranking body and will carry out functions involving supervision of Treaty implementation as well as of the committees or work groups established, while also serving as a body for settling disputes and taking cognizance of any matter that might affect the proper operation of the Treaty.

In addition to the functions identified in paragraph 2 of this article, the Commission will have authority to modify the tariff elimination schedules, the Rules of Origin and the Common Guidelines, and may issue interpretations of the provisions of this Treaty. The

Commission will establish its own rules and procedures, for which no time limit has been established.

P2. Section B Creation of Trade Capacity Building. The DR should prepare its strategic plan for taking advantage of available technical cooperation. In addition, it should define national participation in the group dealing with customs administration and trade facilitation, in view of the high priority accorded to this subject.

ANNEX A

SCOPE OF WORK

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SCOPE OF WORK

United States Agency for International Development (USAID)

DOMINICAN REPUBLIC POLICY AND COMPETITIVENESS PROGRAM
Chemonics International, Contract No. 517-C-00-03-00110-00

Scope of Work
DR-CAFTA Commitments

These Terms of Reference (TOR) serve as a Request for Proposals for the provision of consulting services aimed at contracting a consultant to be responsible for identifying the commitments undertaken by the DR pursuant to the Free Trade Treaty (FTA) negotiated with the United States of America (USA) within the framework of the FTA signed by the USA with Central America (CAFTA). In addition, identify actions that the DR should take in order to take advantage of the Treaty, as well as recommend an action plan, including involvement by official and private sectors, to be implemented by the DR in order to comply with such commitments, such that the DR will be able to take maximum advantage of the Treaty.

BACKGROUND

The DR concluded the negotiation of a Free Trade Treaty with the United States of America (USA), which was signed on August 5, 2004. This latter Treaty incorporates the [essential text] negotiated in CAFTA, as a result of which it is now known as DR-CAFTA.

The DR undertook a series of commitments to modify procedures and institutions in order to facilitate trade and make it more transparent. In addition, it is recommended that the DR carry out other reforms so that the country will be better able to take advantage of the achievements negotiated.

The Treaty has already begun to bear fruit, as witnessed by the requests submitted by dozens of enterprises to set up operations in the DR under the Free Trade Zone system. However, there are many [additional] benefits that the country could receive, provided that certain reforms are carried out. The sooner the reforms are in place, the sooner the DR will be able to reap the benefits of the Treaty.

OBJECTIVE

The objective of the consultancy is to identify the commitments undertaken by the DR pursuant to DR-CAFTA and list actions that the DR should take in order to take maximum advantage of the Treaty, as well as to recommend an action plan to be followed by the DR, with participation by both the official and private sectors, in order to comply with those commitments and take maximum advantage of the Treaty.

WORK TO BE PERFORMED
The consultant will have the following assigned tasks:

- Identify the commitments undertaken by the DR pursuant to DR-CAFTA.
- Identify actions that the DR should take in order to take advantage of the Treaty.
- Prioritize the actions identified in order to comply with commitments and take maximum advantage of DR-CAFTA.
- Based on the above assessment, prepare an action plan that will serve as a guide to the government of the DR in complying with the commitments it has undertaken and taking maximum advantage of DR-CAFTA.

REPORTING
The consultant will deliver to the Nation Council on Competitiveness (CNC) and to the Policy and Competitiveness Program (PCP):

a) A report containing the details specified in "Work to Be Performed";
b) A PowerPoint Presentation illustrating the results of the work performed;
c) Written reports in Microsoft Word (Arial 12), in both hard copy and digital form (3.5" DSDD diskette). The presentation must be in PowerPoint.

The intellectual ownership of the reports, presentations, research, data and work produced by the consultant will rest with Chemonics. All drafts prepared and materials obtained during the consultancy are to be delivered to Chemonics at the conclusion thereof. The consultant agrees to abstain from publishing or making any other use of such materials without the prior written approval of Chemonics.

IMPLEMENTATION OF THE TECHNICAL ASSISTANCE
The consultant will be contracted by Chemonics International under the Policy and Competitiveness Program (PCP) of the United States Agency for International Development (USAID), and will work directly with Lynette Batista, who will be responsible for coordinating and following up on the work of the consultant on behalf of the National Council on Competitiveness (CNC), and Trade Specialist Dr. Rubén Núñez, who will be responsible for coordinating and following up on the work performed by the consultant on behalf of the PCP.

LEVEL OF EFFORT AND DURATION
Level of effort is estimated to be 20 person-days.

QUALIFICATIONS REQUIRED

The consultant must have the following qualifications:

- Be an expert in trade negotiations, with experience in DR negotiations with the USA.