subtitle IV (§ 1671 et seq.) of chapter 4 of this title. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (d)(3)(A)(i), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 1 of title II of the Act is classified generally to part 1 (§ 2251 et seq.) of subchapter II of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

Sections 2104(d)(3) and 2102(b)(14) of the Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (d)(3)(C)(ii), are classified to subsec. (d)(3) of this section and section 3802(b)(14) of this title, respectively.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3805. Implementation of trade agreements

(a) In general

(1) Notification and submission

Any agreement entered into under section 3803(b) of this title shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3803(b)(3) of this title;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) Supporting information

The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this chapter; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3803(b)(3) of this title; and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 3802(c) of this title regarding the promotion of certain priorities.

(3) Reciprocal benefits

In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3803(b) of this title does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) Disclosure of commitments

Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing bill with respect to that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) Limitations on trade authorities procedures

(1) For lack of notice or consultations

(A) In general

The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 3803(b) of this title if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately

agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) Procedural disapproval resolution

(i) For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.'', with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has ''failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002'' on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 3804 of this title or this section with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 3807(b) of this title have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 3807(c) of this title with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this chapter.

(2) Procedures for considering resolutions

(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of section 2192(d) and (e) of this title (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in section 3804(d)(3)(C)(ii) of this title with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 3804(d)(3)(C) of this title.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) For failure to meet other requirements

Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States, as described in section 3801(b)(3) of this title. Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) Rules of House of Representatives and Senate

Subsection (b) of this section, section 3803(c) of this title, and section 3804(d)(3)(C) of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(Pub. L. 107–210, div. B, title XXI, § 2105, Aug. 6, 2002, 116 Stat. 1013; Pub. L. 108–429, title II, § 2004(a)(18), Dec. 3, 2004, 118 Stat. 2591.)

REFERENCES IN TEXT

The Bipartisan Trade Promotion Authority Act of 2002, referred to in subsec. (b)(1)(B), is title XXI of Pub. L. 107–210, div. B, Aug. 6, 2002, 116 Stat. 993, which is classified principally to this chapter. For complete classification of title XXI to the Code, see section 3801(a) of this title and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–429 substituted ''and'' for ''aand'' in introductory provisions.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

UNITED STATES–PANAMA TRADE PROMOTION AGREEMENT IMPLEMENTATION ACT

Pub. L. 112–43, Oct. 21, 2011, 125 Stat. 497, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States–Panama Trade Promotion Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the free trade agreement between the United States and Panama entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Panama for their mutual benefit;

''(3) to establish free trade between the United States and Panama through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States–Panama Trade Promotion Agreement approved by Congress under section 101(a)(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(4) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3.30 of the Agreement.

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States–Panama Trade Promotion Agreement entered into on June 28, 2007, with the Government of Panama and submitted to Congress on October 3, 2011; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on October 3, 2011.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Panama has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Panama providing for the entry into force, on or after January 1, 2012, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Oct. 21, 2011]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent

feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

''(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2011 to the Department of Commerce up to $150,000 for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Sections 1 through 3, this title, and title V take effect on the date of the enactment of this Act [Oct. 21, 2011].

''(2) CERTAIN AMENDATORY PROVISIONS.—The amendments made by sections 204, 205, 207, and 401 of this Act take effect on the date of the enactment of this Act and apply with respect to Panama on the date on which the Agreement enters into force.

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, this Act (other than this subsection and title V) and the amendments made by this Act (other than the amendments made by title V) shall cease to have effect.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.26, 3.27, 3.28, and 3.29, and Annex 3.3, of the Agreement.

''(2) EFFECT ON GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Panama as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

''(3) EFFECT ON CBERA STATUS.—

''(A) IN GENERAL.—Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Panama as a beneficiary country for purposes of that Act.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), Panama shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act, for purposes of—

''(i) sections 771(7)(G)(ii)(III) and 771(7)(H) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(G)(ii)(III) and 1677(7)(H));

''(ii) the duty-free treatment provided under paragraph 4 of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

''(iii) section 274(h)(6)(B) of the Internal Revenue Code of 1986 [26 U.S.C. 274(h)(6)(B)].

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Panama regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Panama provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''(d) TARIFF RATE QUOTAS.—In implementing the tariff rate quotas set forth in Appendix I to the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) DEFINITIONS.—In this section:

''(1) APPLICABLE NTR (MFN) RATE OF DUTY.—The term 'applicable NTR (MFN) rate of duty' means, with respect to a safeguard good, a rate of duty equal to the lowest of—

''(A) the base rate in the Schedule of the United States to Annex 3.3 of the Agreement;

''(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classi-

fiable in the same 8-digit subheading of the HTS as the safeguard good; or

''(C) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

''(2) SAFEGUARD GOOD.—The term 'safeguard good' means a good—

''(A) that is included in the Schedule of the United States to Annex 3.17 of the Agreement;

''(B) that qualifies as an originating good under section 203; and

''(C) for which a claim for preferential tariff treatment under the Agreement has been made.

''(3) SCHEDULE RATE OF DUTY.—The term 'schedule rate of duty' means, with respect to a safeguard good, the rate of duty for that good that is set forth in the Schedule of the United States to Annex 3.3 of the Agreement.

''(4) TRIGGER LEVEL.—

''(A) IN GENERAL.—The term 'trigger level' means—

''(i) in the case of a safeguard good classified under subheading 0201.10.50, 0201.20.80, 0201.30.80, 0202.10.50, 0202.20.80, or 0202.30.80 of the HTS—

''(I) in year 1 of the Agreement, 330 metric tons; and

''(II) in year 2 of the Agreement through year 14 of the Agreement, a quantity equal to 110 percent of the trigger level for that safeguard good for the preceding calendar year; and

''(ii) in the case of any other safeguard good, 115 percent of the quantity that is provided for that safeguard good in the corresponding calendar year in the applicable table contained in Appendix I to the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement.

''(B) RELATIONSHIP TO TABLE.—For purposes of subparagraph (A)(ii), year 1 in the applicable table contained in Appendix I to the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement corresponds to year 1 of the Agreement.

''(5) YEAR 1 OF THE AGREEMENT.—The term 'year 1 of the Agreement' means the period beginning on the date, in a calendar year, on which the Agreement enters into force and ending on December 31 of that calendar year.

''(6) YEARS OTHER THAN YEAR 1 OF THE AGREEMENT.—Any reference to a year of the Agreement subsequent to year 1 of the Agreement shall be deemed to be a reference to the corresponding calendar year in which the Agreement is in force.

''(b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

''(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good that is imported into the United States in that calendar year exceeds the trigger level for that good for that calendar year.

''(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a safeguard good under this subsection shall be—

''(A) in the case of a good classified under subheading 0201.10.50, 0201.20.80, 0201.30.80, 0202.10.50, 0202.20.80, or 0202.30.80 of the HTS—

''(i) in year 1 of the Agreement through year 6 of the Agreement, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(ii) in year 7 of the Agreement through year 14 of the Agreement, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

''(B) in the case of a good classified under subheading 0406.10.08, 0406.10.88, 0406.20.91, 0406.30.91, 0406.90.97, or 2105.00.20 of the HTS—

''(i) in year 1 of the Agreement through year 11 of the Agreement, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(ii) in year 12 of the Agreement through year 14 of the Agreement, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(C) in the case of any other safeguard good—

''(i) in year 1 of the Agreement through year 13 of the Agreement, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(ii) in year 14 of the Agreement through year 16 of the Agreement, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

''(3) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under this subsection, the Secretary shall notify the Government of Panama in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

''(c) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

''(1) subtitle A of title III of this Act; or

''(2) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(d) TERMINATION.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

''SEC. 203. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Panama or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Panama, the United States, or both;

''(2) the good—

''(A) is produced entirely in the territory of Panama, the United States, or both, and—

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

''(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

''(B) satisfies all other applicable requirements of this section; or

''(3) the good is produced entirely in the territory of Panama, the United States, or both, exclusively from materials described in paragraph (1) or (2).

''(c) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on

the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV-VNM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VOM.—The term 'VOM' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement may be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (2), the build-up method described in paragraph (3), or the following net cost method:

$$RVC = \frac{NC-VNM}{NC} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

''(iv) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the net cost formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of Panama or the United States.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of motor vehicles, and is produced in the same plant in the territory of Panama or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Panama or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

''(III) is the same model line of motor vehicles produced in the territory of Panama or the United States as the good described in clause (i) for which regional value-content is being calculated.

''(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive materials provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

''(i) average the amounts calculated under the net cost formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) the fiscal year of the producer of such goods,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

''(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

''(iii) make a separate determination under clause (i) or (ii) for such goods that are exported to the territory of Panama or the United States.

''(E) CALCULATING NET COST.—The importer, exporter, or producer of an automotive good shall, consistent with the provisions regarding allocation of costs provided for in generally accepted accounting principles, determine the net cost of the automotive good under subparagraph (B) by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation by the producer; or

''(C) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit equivalent to the profit added in the normal course of trade.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Panama, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Panama, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Panama, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Panama, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Panama, the United States, or both.

''(e) ACCUMULATION.—

''(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF THE OTHER COUNTRY.—Originating materials from the territory of Panama or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of such other country.

''(2) MULTIPLE PRODUCERS.—A good that is produced in the territory of Panama, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials that—

''(i) are used in the production of the good, and

''(ii) do not undergo the applicable change in tariff classification (set forth in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value of the good;

''(B) the good meets all other applicable requirements of this section; and

''(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

''(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

''(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

''(iv) Goods provided for in heading 2105.

''(v) Beverages containing milk provided for in subheading 2202.90.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

''(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

''(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

''(E) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90.

''(F) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

''(G) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

''(H) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

''(I) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) TEXTILE OR APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an

originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set forth in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

''(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

''(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV)) (as in effect on February 12, 2011).

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed and finished in the territory of Panama, the United States, or both.

''(C) FABRIC, YARN, OR FIBER.—For purposes of this paragraph, in the case of a good that is a fabric, yarn, or fiber, the term ''component of the good that determines the tariff classification of the good'' means all of the fibers in the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Panama or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of such person.

''(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4.1 of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether such accessories, spare parts, or tools are specified or are separately identified in the invoice for the good; and

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(3) REGIONAL VALUE-CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

''(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

''(*l*) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

''(1) undergoes further production or any other operation outside the territory of Panama or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Panama or the United States; or

''(2) does not remain under the control of customs authorities in the territory of a country other than Panama or the United States.

''(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

''(1) each of the goods in the set is an originating good; or

''(2) the total value of the nonoriginating goods in the set does not exceed—

''(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

''(B) in the case of goods, other than textile or apparel goods, 15 percent of the adjusted value of the set.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

''(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a

good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles'—

''(A) means the recognized consensus or substantial authoritative support given in the territory of Panama or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements; and

''(B) may encompass broad guidelines for general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF PANAMA, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Panama, the United States, or both' means any of the following:

''(A) Plants and plant products harvested or gathered in the territory of Panama, the United States, or both.

''(B) Live animals born and raised in the territory of Panama, the United States, or both.

''(C) Goods obtained in the territory of Panama, the United States, or both from live animals.

''(D) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Panama, the United States, or both.

''(E) Minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken from the territory of Panama, the United States, or both.

''(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of Panama or the United States by—

''(i) a vessel that is registered or recorded with Panama and flying the flag of Panama; or

''(ii) a vessel that is documented under the laws of the United States.

''(G) Goods produced on board a factory ship from goods referred to in subparagraph (F), if such factory ship—

''(i) is registered or recorded with Panama and flies the flag of Panama; or

''(ii) is a vessel that is documented under the laws of the United States.

''(H)(i) Goods taken by Panama or a person of Panama from the seabed or subsoil outside the territorial waters of Panama, if Panama has rights to exploit such seabed or subsoil.

''(ii) Goods taken by the United States or a person of the United States from the seabed or subsoil outside the territorial waters of the United States, if the United States has rights to exploit such seabed or subsoil.

''(I) Goods taken from outer space, if the goods are obtained by Panama or the United States or a person of Panama or the United States and not processed in the territory of a country other than Panama or the United States.

''(J) Waste and scrap derived from—

''(i) manufacturing or processing operations in the territory of Panama, the United States, or both; or

''(ii) used goods collected in the territory of Panama, the United States, or both, if such goods are fit only for the recovery of raw materials.

''(K) Recovered goods derived in the territory of Panama, the United States, or both from used goods, and used in the territory of Panama, the United States, or both, in the production of remanufactured goods.

''(L) Goods, at any stage of production, produced in the territory of Panama, the United States, or both, exclusively from—

''(i) goods referred to in any of subparagraphs (A) through (J), or

''(ii) the derivatives of goods referred to in clause (i).

''(6) IDENTICAL GOODS.—The term 'identical goods' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

''(7) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

''(8) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part or an ingredient.

''(9) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(10) MODEL LINE OF MOTOR VEHICLES.—The term 'model line of motor vehicles' means a group of motor vehicles having the same platform or model name.

''(11) NET COST.—The term 'net cost' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

''(12) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

''(13) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term 'nonoriginating good' or 'nonoriginating material' means a good or material, as the case may be, that does not qualify as originating under this section.

''(14) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means goods used to protect another good during its transportation and does not include the packaging materials and containers in which the other good is packaged for retail sale.

''(15) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate, and the treatment under article 3.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

''(16) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Panama or the United States.

''(17) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(18) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(19) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(A) the disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(20) REMANUFACTURED GOOD.—The term 'remanufactured good' means a good that is classified under chapter 84, 85, 87, or 90, or heading 9402, other than a good classified under heading 8418 or 8516, and that—

''(A) is entirely or partially comprised of recovered goods; and

''(B) has a similar life expectancy and enjoys a factory warranty similar to such a good that is new.

''(21) TOTAL COST.—The term 'total cost' means all product costs, period costs, and other costs for a good incurred in the territory of Panama, the United States, or both.

''(22) USED.—The term 'used' means utilized or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 4.1 of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title consistent with the Agreement.

''(2) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25.4(e) of the Agreement.

''(3) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 (as included in Annex 4.1 of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date on which the Agreement enters into force, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 4.1 of the Agreement).

''(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN PANAMA AND THE UNITED STATES.—

''(A) IN GENERAL.—Notwithstanding paragraph (3)(A), the list of fabrics, yarns, and fibers set forth in Annex 3.25 of the Agreement may be modified as provided for in this paragraph.

''(B) DEFINITIONS.—In this paragraph:

''(i) INTERESTED ENTITY.—The term 'interested entity' means the Government of Panama, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

''(ii) DAY; DAYS.—All references to 'day' and 'days' exclude Saturdays, Sundays, and legal holidays observed by the Government of the United States.

''(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—

''(i) IN GENERAL.—An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Panama and the United States and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity.

''(ii) DETERMINATIONS.—After receiving a request under clause (i), the President may determine whether—

''(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in Panama or the United States; or

''(II) any interested entity objects to the request.

''(iii) PROCLAMATION AUTHORITY.—The President may, within the time periods specified in clause (iv), proclaim that the fabric, yarn, or fiber that is the subject of the request is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President has determined under clause (ii) that—

''(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Panama and the United States; or

''(II) no interested entity has objected to the request.

''(iv) TIME PERIODS.—The time periods within which the President may issue a proclamation under clause (iii) are—

''(I) not later than 30 days after the date on which a request is submitted under clause (i); or

''(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

''(v) EFFECTIVE DATE.—Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

''(vi) ELIMINATION OF RESTRICTION.—Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Panama and the United States.

''(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3.25 of the Agreement beginning—

''(i) 45 days after the date on which the request is submitted; or

''(ii) 60 days after the date on which the request is submitted, if the President made a determination under subparagraph (C)(iv)(II).

''(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—

''(i) IN GENERAL.—Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, any fabric, yarn, or fiber—

''(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D) of this paragraph; or

''(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

''(ii) TIME PERIOD FOR SUBMISSION.—An interested entity may submit a request under clause (i) at any time beginning on the date that is 6 months after the date of the action described in subclause (I) or (II) of that clause.

''(iii) PROCLAMATION AUTHORITY.—Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or

fiber that is the subject of the request is available in commercial quantities in a timely manner in Panama or the United States.

''(iv) EFFECTIVE DATE.—A proclamation issued under clause (iii) may not take effect earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

''(F) PROCEDURES.—The President shall establish procedures—

''(i) governing the submission of a request under subparagraphs (C) and (E); and

''(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 206. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 207. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Panama to conduct a verification pursuant to article 3.21 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination of the Secretary that—

''(A) an enterprise in Panama is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

''(B) a claim that a textile or apparel good exported or produced by such enterprise—

''(i) qualifies as an originating good under section 203, or

''(ii) is a good of Panama,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary of the Treasury determines that there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support that claim;

''(2) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

''(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine the country of origin of any such good; and

''(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

''(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a), the President may direct the Secretary of the Treasury to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary of the Treasury determines that there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

''(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

''(e) PUBLICATION OF NAME OF PERSON.—In accordance with article 3.21.9 of the Agreement, the Secretary of the Treasury may publish the name of any person that the Secretary has determined—

''(1) is engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

''(2) has failed to demonstrate that it produces, or is capable of producing, the textile or apparel goods that are the subject of a verification under subsection (a)(1).

''SEC. 209. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 203;

''(2) the amendment made by section 204; and

''(3) any proclamation issued under section 203(o).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) PANAMANIAN ARTICLE.—The term 'Panamanian article' means an article that qualifies as an originating good under section 203(b).

''(2) PANAMANIAN TEXTILE OR APPAREL ARTICLE.—The term 'Panamanian textile or apparel article' means a textile or apparel good (as defined in section 3(4)) that is a Panamanian article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITTING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Panamanian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Panamanian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Panamanian article if, after the date on which the Agreement enters into force, import relief has been provided with respect to that Panamanian article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination referred to in paragraph (1) and any finding or recommendation referred to in paragraph (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report (with the exception of information which the Commission determines to be confidential) and shall publish a summary of the report in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on the article.

''(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.3 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not, in the aggregate, be in effect for more than 4 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than

4 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date that is 9 months, and not later than the date that is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall submit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 3.3 of the Agreement, would have been in effect 1 year after the provision of relief under subsection (a); and

''(2) the rate of duty for that article after December 31 of the year in which such termination occurs shall be, at the discretion of the President, either—

''(A) the applicable rate of duty for that article set forth in the Schedule of the United States to Annex 3.3 of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set forth in the Schedule of the United States to Annex 3.3 of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

''(1) any article that is subject to import relief under—

''(A) subtitle B; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

''(2) any article on which an additional duty assessed under section 202(b) is in effect.

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set forth in the Schedule of the United States to Annex 3.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request for action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall publish in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Panamanian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, no one of which is necessarily decisive; and

''(B) shall not consider changes in consumer preference or changes in technology as factors supporting a determination of serious damage or actual threat thereof.

''(3) DEADLINE FOR DETERMINATION.—The President shall make the determination under paragraph (1) not later than 30 days after the completion of any consultations held pursuant to article 3.24.4 of the Agreement.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under section 322(b) may not, in the aggregate, be in effect for more than 3 years.

''(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

''(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(2) there is evidence that the industry is making a positive adjustment to import competition.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to an article if—

''(1) import relief previously has been provided under this subtitle with respect to that article; or

''(2) the article is subject to import relief under—

''(A) subtitle A; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''On the date on which import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect but for the provision of such relief.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information received in connection with an investigation or determination under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, the party shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 331. FINDINGS AND ACTION ON PANAMANIAN ARTICLES.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d))), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the Panamanian article are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF PANAMANIAN ARTICLES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President may exclude from the action Panamanian articles with respect to which the Commission has made a negative finding under subsection (a).

''TITLE IV—MISCELLANEOUS

''SEC. 401. ELIGIBLE PRODUCTS.

[Amended section 2518 of this title.]

''SEC. 402. MODIFICATION TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

''(a) IN GENERAL.—[Amended section 2702 of this title.]

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date on which the President terminates the designation of Panama as a beneficiary country pursuant to section 201(a)(3) of this Act.

''TITLE V—OFFSETS

''SEC. 501. EXTENSION OF CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 502. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

''Notwithstanding section 6655 of the Internal Revenue Code of 1986 [26 U.S.C. 6655], in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

''(1) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be increased by 0.25 percent of such amount (determined without regard to any increase in such amount not contained in such Code);

''(2) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2016 shall be increased by 0.25 percent of such amount (determined without regard to any increase in such amount not contained in such Code); and

''(3) the amount of the next required installment after an installment referred to in paragraph (1) or (2) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.''

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

UNITED STATES–COLOMBIA TRADE PROMOTION AGREEMENT IMPLEMENTATION ACT

Pub. L. 112–42, Oct. 21, 2011, 125 Stat. 462, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States–Colombia Trade Promotion Agreement Implementation Act'.

(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the free trade agreement between the United States and Colombia entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Colombia for their mutual benefit;

''(3) to establish free trade between the United States and Colombia through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States–Colombia Trade Promotion Agreement approved by Congress under section 101(a)(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(4) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3-C of the Agreement.

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States–Colombia Trade Promotion Agreement entered into on November 22, 2006, with the Government of Colombia, as amended on June 28, 2007, by the United States and Colombia, and submitted to Congress on October 3, 2011; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on October 3, 2011.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Colombia has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Colombia providing for the entry into force, on or after January 1, 2012, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Oct. 21, 2001]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

''(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2011 to the Department of Commerce up to $262,500 for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b) and title V, this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Sections 1 through 3, this title, and title VI take effect on the date of the enactment of this Act [Oct. 21, 2011].

''(2) CERTAIN AMENDATORY PROVISIONS.—The amendments made by sections 204, 205, 207, and 401 of this Act take effect on the date of the enactment of this Act and apply with respect to Colombia on the date on which the Agreement enters into force.

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, this Act (other than this subsection and titles V and VI) and the amendments made by this Act (other than the amendments made by titles V and VI) shall cease to have effect.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, and 3.3.13, and Annex 2.3, of the Agreement.

''(2) EFFECT ON GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Colombia as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

''(3) EFFECT ON ATPA STATUS.—Notwithstanding section 203(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Colombia as a beneficiary country for purposes of that Act.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Colombia regarding the staging of any duty treatment set forth in Annex 2.3 of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Colombia provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''(d) TARIFF RATE QUOTAS.—In implementing the tariff rate quotas set forth in Appendix I to the General Notes to the Schedule of the United States to Annex 2.3 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) DEFINITIONS.—In this section:

''(1) APPLICABLE NTR (MFN) RATE OF DUTY.—The term 'applicable NTR (MFN) rate of duty' means, with respect to a safeguard good, a rate of duty equal to the lowest of—

''(A) the base rate in the Schedule of the United States to Annex 2.3 of the Agreement;

''(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

''(C) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

''(2) SCHEDULE RATE OF DUTY.—The term 'schedule rate of duty' means, with respect to a safeguard good, the rate of duty for that good that is set forth in the Schedule of the United States to Annex 2.3 of the Agreement.

''(3) SAFEGUARD GOOD.—The term 'safeguard good' means a good—

''(A) that is included in the Schedule of the United States to Annex 2.18 of the Agreement;

''(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, or the material was obtained from, a country that is not a party to the Agreement; and

''(C) for which a claim for preferential tariff treatment under the Agreement has been made.

''(4) YEAR 1 OF THE AGREEMENT.—The term 'year 1 of the Agreement' means the period beginning on the date, in a calendar year, on which the Agreement enters into force and ending on December 31 of that calendar year.

''(5) YEARS OTHER THAN YEAR 1 OF THE AGREEMENT.—Any reference to a year of the Agreement subsequent to year 1 of the Agreement shall be deemed to be a reference to the corresponding calendar year in which the Agreement is in force.

''(b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

''(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good imported into the United States in a cal-

endar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good that is imported into the United States in that calendar year exceeds 140 percent of the volume that is provided for that safeguard good in the corresponding year in the applicable table contained in Appendix I of the General Notes to the Schedule of the United States to Annex 2.3 of the Agreement. For purposes of this subsection, year 1 in the table means year 1 of the Agreement.

''(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a safeguard good under this subsection shall be—

''(A) in year 1 of the Agreement through year 4 of the Agreement, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

''(B) in year 5 of the Agreement through year 7 of the Agreement, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(C) in year 8 of the Agreement through year 9 of the Agreement, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

''(3) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under this subsection, the Secretary shall notify the Government of Colombia in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

''(c) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

''(1) subtitle A of title III of this Act; or

''(2) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(d) TERMINATION.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 2.3 of the Agreement.

''SEC. 203. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Colombia or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Colombia, the United States, or both;

''(2) the good—

''(A) is produced entirely in the territory of Colombia, the United States, or both, and—

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 3-A or Annex 4.1 of the Agreement; or

''(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 3-A or Annex 4.1 of the Agreement; and

''(B) satisfies all other applicable requirements of this section; or

''(3) the good is produced entirely in the territory of Colombia, the United States, or both, exclusively from materials described in paragraph (1) or (2).

''(c) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \text{ ε } 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \text{ ε } 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VOM.—The term 'VOM' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \text{ ε } 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

''(iv) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the net cost formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Colombia.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of motor vehicles, and is produced in the same plant in the territory of Colombia or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Colombia or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

''(III) is the same model line of motor vehicles produced in the territory of Colombia or the United States as the good described in clause (i) for which regional value-content is being calculated.

''(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive materials provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

''(i) average the amounts calculated under the net cost formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) the fiscal year of the producer of such goods,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

''(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

''(iii) make a separate determination under clause (i) or (ii) for such goods that are exported to the territory of Colombia or the United States.

''(E) CALCULATING NET COST.—The importer, exporter, or producer of an automotive good shall, consistent with the provisions regarding allocation of costs provided for in generally accepted accounting principles, determine the net cost of the automotive good under subparagraph (B) by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation by the producer; or

''(C) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit equivalent to the profit added in the normal course of trade.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Colombia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Colombia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Colombia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Colombia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Colombia, the United States, or both.

''(e) ACCUMULATION.—

''(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF THE OTHER COUNTRY.—Originating materials from the territory of Colombia or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of such other country.

''(2) MULTIPLE PRODUCERS.—A good that is produced in the territory of Colombia, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

''(A)(i) the value of all nonoriginating materials that—

''(I) are used in the production of the good, and

''(II) do not undergo the applicable change in tariff classification (set forth in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value of the good;

''(ii) the good meets all other applicable requirements of this section; and

''(iii) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good; or

''(B) the good meets the requirements set forth in paragraph 2 of Annex 4.6 of the Agreement.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

''(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of any of the following goods:

''(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

''(iv) Goods provided for in heading 2105.

''(v) Beverages containing milk provided for in subheading 2202.90.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

''(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

''(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

''(E) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in any of headings 1501 through 1508, or any of headings 1511 through 1515.

''(F) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

''(G) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

''(H) Except as provided in subparagraphs (A) through (G) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(I) A nonoriginating material that is a textile or apparel good.

''(3) TEXTILE OR APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set forth in Annex 3-A of the Agreement, shall be considered to be an originating good if—

''(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

''(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV)) (as in effect on February 12, 2011).

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Colombia, the United States, or both.

''(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Colombia or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fun-

gible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of such person.

''(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4.1 of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether such accessories, spare parts, or tools are specified or are separately identified in the invoice for the good; and

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(3) REGIONAL VALUE CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 3-A or Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

''(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

''(*l*) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

''(1) undergoes further production or any other operation outside the territory of Colombia or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Colombia or the United States; or

''(2) does not remain under the control of customs authorities in the territory of a country other than Colombia or the United States.

''(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 3-A and Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

''(1) each of the goods in the set is an originating good; or

''(2) the total value of the nonoriginating goods in the set does not exceed—

''(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

''(B) in the case of goods, other than textile or apparel goods, 15 percent of the adjusted value of the set.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

''(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles'—

''(A) means the recognized consensus or substantial authoritative support given in the territory of Colombia or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements; and

''(B) may encompass broad guidelines for general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF COLOMBIA, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Colombia, the United States, or both' means any of the following:

''(A) Plants and plant products harvested or gathered in the territory of Colombia, the United States, or both.

''(B) Live animals born and raised in the territory of Colombia, the United States, or both.

''(C) Goods obtained in the territory of Colombia, the United States, or both from live animals.

''(D) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Colombia, the United States, or both.

''(E) Minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken from the territory of Colombia, the United States, or both.

''(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of Colombia or the United States by—

''(i) a vessel that is registered or recorded with Colombia and flying the flag of Colombia; or

''(ii) a vessel that is documented under the laws of the United States.

''(G) Goods produced on board a factory ship from goods referred to in subparagraph (F), if such factory ship—

''(i) is registered or recorded with Colombia and flies the flag of Colombia; or

''(ii) is a vessel that is documented under the laws of the United States.

''(H)(i) Goods taken by Colombia or a person of Colombia from the seabed or subsoil outside the

territorial waters of Colombia, if Colombia has rights to exploit such seabed or subsoil.

''(ii) Goods taken by the United States or a person of the United States from the seabed or subsoil outside the territorial waters of the United States, if the United States has rights to exploit such seabed or subsoil.

''(I) Goods taken from outer space, if the goods are obtained by Colombia or the United States or a person of Colombia or the United States and not processed in the territory of a country other than Colombia or the United States.

''(J) Waste and scrap derived from—

''(i) manufacturing or processing operations in the territory of Colombia, the United States, or both; or

''(ii) used goods collected in the territory of Colombia, the United States, or both, if such goods are fit only for the recovery of raw materials.

''(K) Recovered goods derived in the territory of Colombia, the United States, or both, from used goods, and used in the territory of Colombia, the United States, or both, in the production of remanufactured goods.

''(L) Goods, at any stage of production, produced in the territory of Colombia, the United States, or both, exclusively from—

''(i) goods referred to in any of subparagraphs (A) through (J); or

''(ii) the derivatives of goods referred to in clause (i).

''(6) IDENTICAL GOODS.—The term 'identical goods' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

''(7) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

''(8) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part or an ingredient.

''(9) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(10) MODEL LINE OF MOTOR VEHICLES.—The term 'model line of motor vehicles' means a group of motor vehicles having the same platform or model name.

''(11) NET COST.—The term 'net cost' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

''(12) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

''(13) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term 'nonoriginating good' or 'nonoriginating material' means a good or material, as the case may be, that does not qualify as originating under this section.

''(14) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means goods used to protect another good during its transportation and does not include the packaging materials and containers in which the other good is packaged for retail sale.

''(15) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate, and the treatment under article 2.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

''(16) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Colombia or the United States.

''(17) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(18) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(19) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(A) the disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(20) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Colombia or the United States, or both, that is classified under chapter 84, 85, 87, or 90 or heading 9402, other than a good classified under heading 8418 or 8516, and that—

''(A) is entirely or partially comprised of recovered goods; and

''(B) has a similar life expectancy and enjoys a factory warranty similar to such a good that is new.

''(21) TOTAL COST.—

''(A) IN GENERAL.—The term 'total cost'—

''(i) means all product costs, period costs, and other costs for a good incurred in the territory of Colombia, the United States, or both; and

''(ii) does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes.

''(B) OTHER DEFINITIONS.—In this paragraph:

''(i) PRODUCT COSTS.—The term 'product costs' means costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead.

''(ii) PERIOD COSTS.—The term 'period costs' means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

''(iii) OTHER COSTS.—The term 'other costs' means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

''(22) USED.—The term 'used' means utilized or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 3-A and Annex 4.1 of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title consistent with the Agreement.

''(2) FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3-B of the Agreement in an unrestricted quantity, as provided in article 3.3.5(e) of the Agreement.

''(3) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 (as included in Annex 3-A of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date on which the Agreement enters into force, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 3-A of the Agreement).

''(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN COLOMBIA AND THE UNITED STATES.—

''(A) IN GENERAL.—Notwithstanding paragraph (3)(A), the list of fabrics, yarns, and fibers set forth in Annex 3-B of the Agreement may be modified as provided for in this paragraph.

''(B) DEFINITIONS.—In this paragraph:

''(i) INTERESTED ENTITY.—The term 'interested entity' means the Government of Colombia, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

''(ii) DAY; DAYS.—All references to 'day' and 'days' exclude Saturdays, Sundays, and legal holidays observed by the Government of the United States.

''(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—

''(i) IN GENERAL.—An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Colombia and the United States and to add that fabric, yarn, or fiber to the list in Annex 3-B of the Agreement in a restricted or unrestricted quantity.

''(ii) DETERMINATION.—After receiving a request under clause (i), the President may determine whether—

''(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in Colombia or the United States; or

''(II) any interested entity objects to the request.

''(iii) PROCLAMATION AUTHORITY.—The President may, within the time periods specified in clause (iv), proclaim that the fabric, yarn, or fiber that is the subject of the request is added to the list in Annex 3-B of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President has determined under clause (ii) that—

''(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Colombia and the United States; or

''(II) no interested entity has objected to the request.

''(iv) TIME PERIODS.—The time periods within which the President may issue a proclamation under clause (iii) are—

''(I) not later than 30 days after the date on which a request is submitted under clause (i); or

''(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

''(v) EFFECTIVE DATE.—Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

''(vi) SUBSEQUENT ACTION.—Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3-B of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Colombia and the United States.

''(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3-B of the Agreement beginning—

''(i) 45 days after the date on which the request is submitted; or

''(ii) 60 days after the date on which the request is submitted, if the President made a determination under subparagraph (C)(iv)(II).

''(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—

''(i) IN GENERAL.—Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3-B of the Agreement, any fabric, yarn, or fiber—

''(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D) of this paragraph; or

''(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

''(ii) TIME PERIOD FOR SUBMISSION.—An interested entity may submit a request under clause (i) at any time beginning on the date that is 6 months after the date of the action described in subclause (I) or (II) of that clause.

''(iii) PROCLAMATION AUTHORITY.—Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in Colombia or the United States.

''(iv) EFFECTIVE DATE.—A proclamation issued under clause (iii) may not take effect earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

''(F) PROCEDURES.—The President shall establish procedures—

''(i) governing the submission of a request under subparagraphs (C) and (E); and

''(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 206. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 207. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Colombia to conduct a verification pursuant to article 3.2 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination of the Secretary that—

''(A) an exporter or producer in Colombia is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

''(B) a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 203, or

''(ii) is a good of Colombia,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary of the Treasury determines that there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support that claim;

''(2) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

''(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine the country of origin of any such good; and

''(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

''(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a)(1), the President may direct the Secretary of the Treasury to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary of the Treasury determines that there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

''(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

''(e) PUBLICATION OF NAME OF PERSON.—In accordance with article 3.2.6 of the Agreement, the Secretary of the Treasury may publish the name of any person that the Secretary has determined—

''(1) is engaged in circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

''(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

''SEC. 209. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 203;

''(2) the amendment made by section 204; and

''(3) any proclamation issued under section 203(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COLOMBIAN ARTICLE.—The term 'Colombian article' means an article that qualifies as an originating good under section 203(b).

''(2) COLOMBIAN TEXTILE OR APPAREL ARTICLE.—The term 'Colombian textile or apparel article' means a textile or apparel good (as defined in section 3(4)) that is a Colombian article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITTING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for

under the Agreement, a Colombian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Colombian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Colombian article if, after the date on which the Agreement enters into force, import relief has been provided with respect to that Colombian article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination referred to in paragraph (1) and any finding or recommendation referred to in paragraph (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report (with the exception of information which the Commission determines to be confidential) and shall publish a summary of the report in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2.3 of the Agreement in the duty imposed on the article.

''(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.2 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section by up to 2 years, if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date that is 9 months, and not later than the date that is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall submit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2.3 of the Agreement, would have been in effect 1 year after the provision of relief under subsection (a); and

''(2) the rate of duty for that article after December 31 of the year in which such termination occurs shall be, at the discretion of the President, either—

''(A) the applicable rate of duty for that article set forth in the Schedule of the United States to Annex 2.3 of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set forth in the Schedule of the United States to Annex 2.3 of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

''(1) any article that is subject to import relief under—

''(A) subtitle B; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

''(2) any article on which an additional duty assessed under section 202(b) is in effect.

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set forth in the Schedule of the United States to Annex 2.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request for action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall publish in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Colombian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and losses, and investment, no one of which is necessarily decisive; and

''(B) shall not consider changes in consumer preference or changes in technology in the United States as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under section 322(b) may not be in effect for more than 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 1 year, if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 3 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to an article if—

''(1) import relief previously has been provided under this subtitle with respect to that article; or

''(2) the article is subject to import relief under—

''(A) subtitle A; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''On the date on which import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect but for the provision of such relief.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information received in connection with an investigation or determination under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, the party shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 331. FINDINGS AND ACTION ON COLOMBIAN ARTICLES.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the Colombian article are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING COLOMBIAN ARTICLES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President may exclude from the action Colombian articles with respect to which the Commission has made a negative finding under subsection (a).

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.

[Amended section 2518 of this title.]

''TITLE V—EXTENSION OF ANDEAN TRADE PREFERENCE ACT

''SEC. 501. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

''(a) EXTENSION.—[Amended section 3206 of this title.]

''(b) TREATMENT OF CERTAIN APPAREL ARTICLES.—[Amended section 3203 of this title.]

''(c) EFFECTIVE DATE.—

''(1) IN GENERAL.—The amendments made by this section shall apply to articles entered on or after the 15th day after the date of the enactment of this Act [Oct. 21, 2011].

''(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

''(A) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to subparagraph (B), any entry of an article to which duty-free treatment or other preferential treatment under the Andean Trade Preference Act [19 U.S.C. 3201 et seq.] would have applied if the entry had been made on February 12, 2011, that was made—

''(i) after February 12, 2011, and

''(ii) before the 15th day after the date of the enactment of this Act,

shall be liquidated or reliquidated as though such entry occurred on the date that is 15 days after the date of the enactment of this Act.

''(B) REQUESTS.—A liquidation or reliquidation may be made under subparagraph (A) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

''(i) to locate the entry; or

''(ii) to reconstruct the entry if it cannot be located.

''(C) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of an article under subparagraph (A) shall be paid, without interest, not later than 90 days after the date of the liquidation or reliquidation (as the case may be).

''(3) DEFINITION.—As used in this subsection, the term 'entry' includes a withdrawal from warehouse for consumption.

''TITLE VI—OFFSETS

''SEC. 601. ELIMINATION OF CERTAIN NAFTA CUSTOMS FEES EXEMPTION.

''(a) IN GENERAL.—[Amended section 58c of this title.]

''(b) USE OF FEES.—The fees collected as a result of the amendment made by this section shall be deposited in the Customs User Fee Account, shall be available for reimbursement of customs services and inspections costs, and shall be available only to the extent provided in appropriations Acts.

''(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to passengers arriving from Canada, Mexico, or an adjacent island on or after the date that is 15 days after the date of the enactment of this Act [Oct. 21, 2011].

''SEC. 602. EXTENSION OF CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 603. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

''Notwithstanding section 6655 of the Internal Revenue Code of 1986 [26 U.S.C. 6655], in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

''(1) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2016 shall be increased by 0.50 percent of such amount (determined without regard to any increase in such amount not contained in such Code); and

''(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.''

UNITED STATES–KOREA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 112–41, Oct. 21, 2011, 125 Stat. 428, provided that:

''SECTION 1. SHORT TITLE.

''(a) SHORT TITLE.—This Act may be cited as the 'United States–Korea Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the free trade agreement between the United States and Korea entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to secure the benefits of the agreement entered into pursuant to an exchange of letters between the United States and the Government of Korea on February 10, 2011;

''(3) to strengthen and develop economic relations between the United States and Korea for their mutual benefit;

''(4) to establish free trade between the United States and Korea through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(5) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States–Korea Free Trade Agreement approved by Congress under section 101(a)(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(4) KOREA.—The term 'Korea' means the Republic of Korea.

''(5) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States–Korea Free Trade Agreement entered into on June 30, 2007, with the Government of Korea, and submitted to Congress on October 3, 2011; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on October 3, 2011.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Korea has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [Mar. 15, 2012], the President is authorized to exchange notes with the Government of Korea providing for the entry into force, on or after January 1, 2012, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Oct. 21, 2011]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force [Mar. 15, 2012] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force [Mar. 15, 2012]. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclama-

tion is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

''(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 22 of the Agreement. The office shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2011 to the Department of Commerce up to $750,000 for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States [sic] share of the expenses of panels established under chapter 22 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 11.16.1(a)(i)(C) or article 11.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 11 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Mar. 15, 2012].

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Sections 1 through 3, section 207(g), this title, and title V take effect on the date of the enactment of this Act [Oct. 21, 2011].

''(2) CERTAIN AMENDATORY PROVISIONS.—The amendments made by sections 203, 204, 206, and 401 of this Act take effect on the date of the enactment of this Act and apply with respect to Korea on the date on which the Agreement enters into force [Mar. 15, 2012].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, this Act (other than this subsection and title V) and the amendments made by this Act (other than the amendments made by title V) shall cease to have effect.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such continuation of duty-free or excise treatment, or

''(3) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, and 2.6, and Annex 2-B, Annex 4-B, and Annex 22-A, of the Agreement.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Korea regarding the staging of any duty treatment set forth in Annex 2-B of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Korea provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2-B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''(d) TARIFF TREATMENT OF MOTOR VEHICLES.—The President may proclaim the following tariff treatment with respect to the following motor vehicles of Korea:

''(1) CERTAIN PASSENGER CARS.—In the case of originating goods of Korea classifiable under subheading 8703.10.10, 8703.10.50, 8703.21.00, 8703.22.00, 8703.23.00, 8703.24.00, 8703.31.00, 8703.32.00, or 8703.33.00 of the HTS that are entered, or withdrawn from warehouse for consumption—

''(A) the rate of duty for such goods shall be 2.5 percent for year 1 of the Agreement through year 4 of the Agreement; and

''(B) such goods shall be free of duty for each year thereafter.

''(2) ELECTRIC MOTOR VEHICLES.—In the case of originating goods of Korea classifiable under subheading 8703.90.00 of the HTS that are entered, or withdrawn from warehouse for consumption—

''(A) the rate of duty for such goods shall be—

''(i) 2.0 percent for year 1 of the Agreement;

''(ii) 1.5 percent for year 2 of the Agreement;

''(iii) 1.0 percent for year 3 of the Agreement; and

''(iv) 0.5 percent for year 4 of the Agreement; and

''(B) such goods shall be free of duty for each year thereafter.

''(3) CERTAIN TRUCKS.—In the case of originating goods of Korea classifiable under subheading 8704.21.00, 8704.22.50, 8704.23.00, 8704.31.00, 8704.32.00, or 8704.90.00 of the HTS that are entered, or withdrawn from warehouse for consumption—

''(A) the rate of duty for such goods shall be—

''(i) 25 percent for year 1 of the Agreement through year 7 of the Agreement;

''(ii) 16.6 percent for year 8 of the Agreement; and

''(iii) 8.3 percent for year 9 of the Agreement; and

''(B) such goods shall be free of duty for each year thereafter.

''(4) DEFINITIONS.—In this subsection—

''(A) the term 'year 1 of the Agreement' means the period beginning on the date, in a calendar year, on which the Agreement enters into force [Mar. 15, 2012] and ending on December 31 of that calendar year; and

''(B) the terms 'year 2 of the Agreement', 'year 3 of the Agreement', 'year 4 of the Agreement', 'year 5 of the Agreement', 'year 6 of the Agreement', 'year 7 of the Agreement', 'year 8 of the Agreement', and 'year 9 of the Agreement' mean the second, third, fourth, fifth, sixth, seventh, eighth, and ninth calendar years, respectively, in which the Agreement is in force.

''SEC. 202. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Korea or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Korea, the United States, or both;

''(2) the good—

''(A) is produced entirely in the territory of Korea, the United States, or both, and—

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4-A or Annex 6-A of the Agreement; or

''(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4-A or Annex 6-A of the Agreement; and

''(B) satisfies all other applicable requirements of this section; or

''(3) the good is produced entirely in the territory of Korea, the United States, or both, exclusively from materials described in paragraph (1) or (2).

''(c) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 6-A of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \varepsilon 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials, other than indirect materials, that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \varepsilon 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VOM.—The term 'VOM' means the value of originating materials, other than indirect materials, that are acquired or self-produced, and used by the producer in the production of the good.

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 6-A of the Agreement may be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (2), the build-up method described in paragraph (3), or the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \varepsilon 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

''(iv) VNM.—The term 'VNM' means the value of nonoriginating materials, other than indirect materials, that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the net cost formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of Korea or the United States.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of motor vehicles, and is produced in the same plant in the territory of Korea or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Korea or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

''(III) is the same model line of motor vehicles produced in the territory of Korea or the United States as the good described in clause (i) for which regional value-content is being calculated.

''(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive materials provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

''(i) average the amounts calculated under the net cost formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) the fiscal year of the producer of such goods,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

''(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

''(iii) make a separate determination under clause (i) or (ii) for such goods that are exported to the territory of Korea or the United States.

''(E) CALCULATING NET COST.—The importer, exporter, or producer of an automotive good shall, consistent with the provisions regarding allocation of costs provided for in generally accepted accounting principles, determine the net cost of the automotive good under subparagraph (B) by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation by the producer; or

''(C) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit equivalent to the profit added in the normal course of trade.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Korea, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Korea, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Korea, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Korea, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Korea, the United States, or both.

''(e) ACCUMULATION.—

''(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF THE OTHER COUNTRY.—Originating materials from the territory of Korea or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of such other country.

''(2) MULTIPLE PRODUCERS.—A good that is produced in the territory of Korea, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 6-A of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials used in the production of the good that do not undergo the applicable change in tariff classification (set forth in Annex 6-A of the Agreement) does not exceed 10 percent of the adjusted value of the good;

''(B) the good meets all other applicable requirements of this section; and

''(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 3 that is used in the production of a good provided for in chapter 3.

''(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

''(C) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of any of the following goods:

''(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

''(iv) Goods provided for in heading 2105.

''(v) Beverages containing milk provided for in subheading 2202.90.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

''(D) A nonoriginating material provided for in chapter 7 that is used in the production of a good provided for in subheading 0703.10, 0703.20, 0709.59, 0709.60, 0711.90, 0712.20, 0714.20, or any of subheadings 0710.21 through 0710.80 or 0712.39 through 0713.10.

''(E) A nonoriginating material provided for in heading 1006, or a nonoriginating rice product provided for in chapter 11 that is used in the production of a good provided for in heading 1006, 1102, 1103, 1104, or subheading 1901.20 or 1901.90.

''(F) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

''(G) Nonoriginating peaches, pears, or apricots provided for in chapter 8 or 20 that are used in the production of a good provided for in heading 2008.

''(H) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in any of headings 1501 through 1508, or heading 1512, 1514, or 1515.

''(I) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

''(J) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

''(K) Except as provided in subparagraphs (A) through (J) and Annex 6-A of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) TEXTILE OR APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set forth in Annex 4-A of the Agreement, shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed and finished in the territory of Korea, the United States, or both.

''(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Korea or the United States); or

(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of such person.

''(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 6-A of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(3) REGIONAL VALUE CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4-A or Annex 6-A of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

''(k) INDIRECT MATERIALS.—An indirect material shall be disregarded in determining whether a good is an originating good.

''(*l*) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

''(1) undergoes further production or any other operation outside the territory of Korea or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Korea or the United States; or

''(2) does not remain under the control of customs authorities in the territory of a country other than Korea or the United States.

''(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4-A and Annex 6-A of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

''(1) each of the goods in the set is an originating good; or

''(2) the total value of the nonoriginating goods in the set does not exceed—

''(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

''(B) in the case of goods, other than textile or apparel goods, 15 percent of the adjusted value of the set.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

''(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles'—

''(A) means the recognized consensus or substantial authoritative support given in the territory of Korea or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements; and

''(B) may encompass broad guidelines for general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF KOREA, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Korea, the United States, or both' means any of the following:

''(A) Plants and plant products grown, and harvested or gathered, in the territory of Korea, the United States, or both.

''(B) Live animals born and raised in the territory of Korea, the United States, or both.

''(C) Goods obtained in the territory of Korea, the United States, or both from live animals.

''(D) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Korea, the United States, or both.

''(E) Minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken from the territory of Korea, the United States, or both.

''(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of Korea or the United States by—

''(i) a vessel that is registered or recorded with Korea and flying the flag of Korea; or

''(ii) a vessel that is documented under the laws of the United States.

''(G) Goods produced on board a factory ship from goods referred to in subparagraph (F), if such factory ship—

''(i) is registered or recorded with Korea and flies the flag of Korea; or

''(ii) is a vessel that is documented under the laws of the United States.

''(H)(i) Goods taken by Korea or a person of Korea from the seabed or subsoil outside the territory of Korea, the United States, or both, if Korea has rights to exploit such seabed or subsoil; or

''(ii) Goods taken by the United States or a person of the United States from the seabed or subsoil outside the territory of the United States, Korea, or both, if the United States has rights to exploit such seabed or subsoil.

''(I) Goods taken from outer space, if the goods are obtained by Korea or the United States or a person of Korea or the United States and not processed in the territory of a country other than Korea or the United States.

''(J) Waste and scrap derived from—

''(i) manufacturing or processing operations in the territory of Korea, the United States, or both; or

''(ii) used goods collected in the territory of Korea, the United States, or both, if such goods are fit only for the recovery of raw materials.

''(K) Recovered goods derived in the territory of Korea, the United States, or both, from used goods, and used in the territory of Korea, the United States, or both, in the production of remanufactured goods.

''(L) Goods, at any stage of production, produced in the territory of Korea, the United States, or both, exclusively from—

''(i) goods referred to in any of subparagraphs (A) through (J); or

''(ii) the derivatives of goods referred to in clause (i).

''(6) IDENTICAL GOODS.—The term 'identical goods' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

''(7) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

''(8) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part or an ingredient.

''(9) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(10) MODEL LINE OF MOTOR VEHICLES.—The term 'model line of motor vehicles' means a group of motor vehicles having the same platform or model name.

''(11) NET COST.—The term 'net cost' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

''(12) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

''(13) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term 'nonoriginating good' or 'nonoriginating material' means a good or material, as the case may be, that does not qualify as originating under this section.

''(14) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means goods used to protect another good during its transportation and does not include the packaging materials and containers in which the other good is packaged for retail sale.

''(15) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate, and the treatment under article 2.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

''(16) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Korea or the United States.

''(17) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, breeding, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(18) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(19) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(A) the disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(20) REMANUFACTURED GOOD.—The term 'remanufactured good' means a good that is classified under chapter 84, 85, 87, or 90 or heading 9402, and that—

''(A) is entirely or partially comprised of recovered goods; and

''(B) has a similar life expectancy and enjoys a factory warranty similar to such a good that is new.

''(21) TOTAL COST.—

''(A) IN GENERAL.—The term 'total cost'—

''(i) means all product costs, period costs, and other costs for a good incurred in the territory of Korea, the United States, or both; and

''(ii) does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes.

''(B) OTHER DEFINITIONS.—In this paragraph:

''(i) PRODUCT COSTS.—The term 'product costs' means costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead.

''(ii) PERIOD COSTS.—The term 'period costs' means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

''(iii) OTHER COSTS.—The term 'other costs' means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

''(22) USED.—The term 'used' means utilized or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 4-A and Annex 6-A of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 (as included in Annex 4-A of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) such modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Korea pursuant to article 4.2.5 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date on which the Agreement enters into force [Mar. 15, 2012], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 4-A of the Agreement).

''(3) FIBERS, YARNS, OR FABRICS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(A), the list of fibers, yarns, and fabrics set forth in the list of the United States in Appendix 4-B-1 of the Agreement may be modified as provided for in this paragraph.

''(B) DEFINITIONS.—In this paragraph:

''(i) INTERESTED ENTITY.—The term 'interested entity' means the Government of Korea, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

''(ii) DAY; DAYS.—All references to 'day' and 'days' exclude Saturdays, Sundays, and legal holidays observed by the Government of the United States.

''(C) REQUESTS TO ADD FIBERS, YARNS, OR FABRICS.—

''(i) IN GENERAL.—An interested entity may request the President to determine that a fiber, yarn, or fabric is not available in commercial quantities in a timely manner in the United States and to add that fiber, yarn, or fabric to the list of the United States in Appendix 4-B-1 of the Agreement.

''(ii) DETERMINATION.—After receiving a request under clause (i), the President may determine whether—

''(I) the fiber, yarn, or fabric is available in commercial quantities in a timely manner in the United States; or

''(II) any interested entity objects to the request.

''(iii) PROCLAMATION AUTHORITY.—The President may, within the time periods specified in clause (iv), proclaim that the fiber, yarn, or fabric that is the subject of the request is added to the list of the United States in Appendix 4-B-1 of the Agreement, if the President has determined under clause (ii) that—

''(I) the fiber, yarn, or fabric is not available in commercial quantities in a timely manner in the United States; or

''(II) no interested entity has objected to the request.

''(iv) TIME PERIODS.—The time periods within which the President may issue a proclamation under clause (iii) are—

''(I) not later than 30 days after the date on which a request is submitted under clause (i); or

''(II) not later than 60 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

''(v) EFFECTIVE DATE.—Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

''(D) DEEMED DENIAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within 30 days of the expiration of the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the request shall be considered to be denied.

''(E) REQUESTS TO REMOVE FIBERS, YARNS, OR FABRICS.—

''(i) IN GENERAL.—An interested entity may request the President to remove from the list of the United States in Appendix 4-B-1 of the Agreement, any fiber, yarn, or fabric that has been added to that list pursuant to subparagraph (C)(iii).

''(ii) PROCLAMATION AUTHORITY.—Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim that the fiber, yarn, or fabric that is the subject of the request is removed from the list of the United States in Appendix 4-B-1 of the Agreement if the President determines that the fiber, yarn, or fabric is available in commercial quantities in a timely manner in the United States.

''(iii) EFFECTIVE DATE.—A proclamation issued under clause (ii) may not take effect earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

''(F) PROCEDURES.—The President shall establish procedures—

''(i) governing the submission of a request under subparagraphs (C) and (E); and

''(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C)(ii) or (E)(ii).

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 205. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 206. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 207. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Korea to conduct a verification pursuant to article 4.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination of the Secretary that—

''(A) an exporter or producer in Korea is complying with applicable customs laws, regulations, procedures, requirements, and practices affecting trade in textile or apparel goods; or

''(B) a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 202, or

''(ii) is a good of Korea,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) the textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

''(2) denial of entry into the United States of—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(e) PUBLICATION OF NAME OF PERSON.—In accordance with article 4.3.11 of the Agreement, the Secretary of the Treasury may publish the name of any person that the Secretary has determined—

''(1) is engaged in circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

''(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

''(f) CERTIFICATE OF ELIGIBILITY.—The Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security may require an importer to submit at the time the importer files a claim for preferential tariff treatment under Annex 4-B of the Agreement a certificate of eligibility, properly completed and signed by an authorized official of the Government of Korea.

''(g) VERIFICATIONS IN THE UNITED STATES.—If the government of a country that is a party to a free trade agreement with the United States makes a request for a verification pursuant to that agreement, the Secretary of the Treasury may request a verification of the production of any textile or apparel good in order to assist that government in determining whether—

''(1) a claim of origin under the agreement for a textile or apparel good is accurate; or

''(2) an exporter, producer, or other enterprise located in the United States involved in the movement of textile or apparel goods from the United States to the territory of the requesting government is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods.

''SEC. 208. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 202;

''(2) the amendment made by section 203; and

''(3) any proclamation issued under section 202(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) KOREAN ARTICLE.—The term 'Korean article' means an article that qualifies as an originating good under section 202(b).

''(2) KOREAN MOTOR VEHICLE ARTICLE.—The term 'Korean motor vehicle article' means a good provided for in heading 8703 or 8704 of the HTS that qualifies as an originating good under section 202(b).

''(3) KOREAN TEXTILE OR APPAREL ARTICLE.—The term 'Korean textile or apparel article' means a textile or apparel good (as defined in section 3(5)) that is a Korean article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITTING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

''(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Korean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Korean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Korean article if, after the date on which the Agreement enters into force [Mar. 15, 2012], import relief has been provided with respect to that Korean article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination referred to in paragraph (1) and any finding or recommendation referred to in paragraph (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report (with the exception of information which the Commission determines to be confidential) and shall publish a summary of the report in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2-B of the Agreement in the duty imposed on the article.

''(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force[Mar. 15, 2012].

''(2) DUTIES APPLIED ON A SEASONAL BASIS.—In the case of imports of an article to which a duty is applied on a seasonal basis, the import relief that the President is authorized to provide under this section is as follows:

''(A) The suspension of any further reduction provided for under Annex 2-B of the Agreement in the duty imposed on the article.

''(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles for the corresponding season immediately preceding the date the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS for the corresponding season immediately preceding the date on which the Agreement enters into force.

''(3) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 10.2.7 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section by up to 1 year, if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date that is 9 months, and not later than the date that is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall submit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 3 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—Beginning on the date on which import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect but for the provision of such relief.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that is subject to import relief under—

''(1) subtitle B or C; or

''(2) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Mar. 15, 2012].

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set forth in the Schedule of the United States to Annex 2-B of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

''(c) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of a Korean article after the date on which such relief would, but for this subsection, terminate under subsection (a) and (b), if the President determines that Korea has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—MOTOR VEHICLE SAFEGUARD MEASURES

''SEC. 321. MOTOR VEHICLE SAFEGUARD MEASURES.

''The provisions of subtitle A shall apply with respect to a Korean motor vehicle article to the same extent

that such provisions apply to Korean articles, except as follows:

''(1) Section 311(d) and paragraphs (2) and (3) of 313(c) shall not apply.

''(2) Section 313(d)(2)(A) shall be applied and administered by substituting '2 years' for '1 year'.

''(3) Section 313(d)(2)(C) shall be applied and administered by substituting '4 years' for '3 years'.

''(4) Section 313(f)(1) shall be applied and administered by substituting 'subtitle A' for 'subtitle B or C'.

''(5) Section 314(b) shall be applied and administered as if such section read as follows:

''(b) EXCEPTION.—Import relief may be provided under this subtitle with respect to a Korean motor vehicle article during any period before the date that is 10 years after the date on which duties on the article are eliminated, as set forth in section 201(d), or, if the article is not referred to in section 201(d), the Schedule of the United States to Annex 2-B of the Agreement.

''SUBTITLE C—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 331. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request for action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall publish in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 332. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 331(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Korean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, no one of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is—

''(A) the suspension of any further reduction provided for under Annex 2-B of the Agreement in the duty imposed on the article; or

''(B) an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Mar. 15, 2012].

''SEC. 333. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under section 332(b) may not be in effect for more than 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

''SEC. 334. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to an article if—

''(1) import relief previously has been provided under this subtitle with respect to that article; or

''(2) the article is subject to import relief under—

''(A) subtitle A; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 335. RATE AFTER TERMINATION OF IMPORT RELIEF.

''On the date on which import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect but for the provision of such relief.

''SEC. 336. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 337. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 338. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information received in connection with an investigation or determination under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, the party shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

''SUBTITLE D—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 341. FINDINGS AND ACTION ON KOREAN ARTICLES.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of

1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d))), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the Korean article are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING KOREAN ARTICLES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President may exclude from the action Korean articles with respect to which the Commission has made a negative finding under subsection (a).

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.

[Amended section 2518 of this title.]

''TITLE V—OFFSETS

''SEC. 501. INCREASE IN PENALTY ON PAID PREPARERS WHO FAIL TO COMPLY WITH EARNED INCOME TAX CREDIT DUE DILIGENCE REQUIREMENTS.

''(a) IN GENERAL.—[Amended section 6695 of Title 26, Internal Revenue Code.]

''(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns required to be filed after December 31, 2011.

''SEC. 502. REQUIREMENT FOR PRISONS LOCATED IN THE UNITED STATES TO PROVIDE INFORMATION FOR TAX ADMINISTRATION.

''(a) IN GENERAL.—[Enacted section 6116 of Title 26.]

''(b) CLERICAL AMENDMENT.—[Amended analysis of subchapter B of chapter 61 of Title 26.]

''SEC. 503. RATE FOR MERCHANDISE PROCESSING FEES.

''For the period beginning on December 1, 2015, and ending on June 30, 2021, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

''(1) in subparagraph (A), by substituting '0.3464' for '0.21'; and

''(2) in subparagraph (B)(i), by substituting '0.3464' for '0.21'.

''SEC. 504. EXTENSION OF CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 505. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

''Notwithstanding section 6655 of the Internal Revenue Code of 1986 [26 U.S.C. 6655], in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

''(1) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be increased by 0.25 percent of such amount (determined without regard to any increase in such amount not contained in such Code);

''(2) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2016 shall be increased by 2.75 percent of such amount (determined without regard to any increase in such amount not contained in such Code); and

''(3) the amount of the next required installment after an installment referred to in paragraph (1) or (2) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.''

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

UNITED STATES-PERU TRADE PROMOTION AGREEMENT IMPLEMENTATION ACT

Pub. L. 110–138, Dec. 14, 2007, 121 Stat. 1455, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Peru Trade Promotion Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the free trade agreement between the United States and Peru entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Peru for their mutual benefit;

''(3) to establish free trade between the United States and Peru through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Peru Trade Promotion Agreement approved by Congress under section 101(a)(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(4) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3–C of the Agreement.

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Peru Trade Promotion Agreement entered into on April 12, 2006, with the Government of Peru, as amended on June 24 and June 25, 2007, respectively, by the United States and Peru, and submitted to Congress on September 27, 2007; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on September 27, 2007.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Peru has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [Feb. 1, 2009], the President is authorized to exchange notes with the Government of Peru providing for the entry into force, on or after January 1, 2008, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Dec. 14, 2007]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force [Feb. 1, 2009] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

''(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2007 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Feb. 1, 2009].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Dec. 14, 2007].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.3.13, and Annex 2.3 of the Agreement.

''(2) EFFECT ON GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force [Feb. 1, 2009], terminate the designation of Peru as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Peru regarding the staging of any duty treatment set forth in Annex 2.3 of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Peru provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''(d) TARIFF RATE QUOTAS.—In implementing the tariff rate quotas set forth in Appendix I to the Schedule of the United States to Annex 2.3 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) DEFINITIONS.—In this section:

''(1) APPLICABLE NTR (MFN) RATE OF DUTY.—The term 'applicable NTR (MFN) rate of duty' means, with respect to a safeguard good, a rate of duty equal to the lowest of—

''(A) the base rate in the Schedule of the United States to Annex 2.3 of the Agreement;

''(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force [Feb. 1, 2009], apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

''(C) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

''(2) SCHEDULE RATE OF DUTY.—The term 'schedule rate of duty' means, with respect to a safeguard good, the rate of duty for that good that is set forth in the Schedule of the United States to Annex 2.3 of the Agreement.

''(3) SAFEGUARD GOOD.—The term 'safeguard good' means a good—

''(A) that is included in the Schedule of the United States to Annex 2.18 of the Agreement;

''(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

''(C) for which a claim for preferential tariff treatment under the Agreement has been made.

''(b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

''(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good that is imported into the United States in that calendar year exceeds 130 percent of the volume that is provided for that safeguard good in the corresponding year in the applicable table contained in Appendix I of the General Notes to the Schedule of the United States to Annex 2.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

''(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a safeguard good under this subsection shall be—

''(A) in years 1 through 12, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

''(B) in years 13 through 16, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

''(3) NOTICE.—Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under this subsection, the Secretary shall notify the Government of Peru in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

''(c) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

''(1) subtitle A of title III of this Act; or

''(2) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(d) TERMINATION.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 2.3 of the Agreement.

''SEC. 203. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Peru or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Peru, the United States, or both;

''(2) the good—

''(A) is produced entirely in the territory of Peru, the United States, or both, and—

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 3–A or Annex 4.1 of the Agreement; or

''(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 3–A or Annex 4.1 of the Agreement; and

''(B) satisfies all other applicable requirements of this section; or

''(3) the good is produced entirely in the territory of Peru, the United States, or both, exclusively from materials described in paragraph (1) or (2).

''(c) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV-VNM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VOM.—The term 'VOM' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC-VNM}{NC} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

''(iv) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Peru.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of motor vehicles, and is produced in the same plant in the territory of Peru or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Peru or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

''(III) is the same model line of motor vehicles produced in the territory of Peru or the United States as the good described in clause (i) for which regional value-content is being calculated.

''(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive materials provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

''(i) average the amounts calculated under the formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) the fiscal year of the producer of such goods,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

''(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

''(iii) make a separate determination under clause (i) or (ii) for such goods that are exported to the territory of Peru or the United States.

''(E) CALCULATING NET COST.—The importer, exporter, or producer of an automotive good shall, consistent with the provisions regarding allocation of costs provided for in generally accepted accounting principles, determine the net cost of the automotive good under subparagraph (B) by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Arti-

cle VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation by the producer; or

''(C) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit equivalent to the profit added in the normal course of trade.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Peru, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Peru, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Peru, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Peru, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Peru, the United States, or both.

''(e) ACCUMULATION.—

''(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF ANOTHER COUNTRY.—Originating materials from the territory of Peru or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of such other country.

''(2) MULTIPLE PRODUCERS.—A good that is produced in the territory of Peru, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

''(A)(i) the value of all nonoriginating materials that—

''(I) are used in the production of the good, and

''(II) do not undergo the applicable change in tariff classification (set forth in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value of the good;

''(ii) the good meets all other applicable requirements of this section; and

''(iii) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good; or

''(B) the good meets the requirements set forth in paragraph 2 of Annex 4.6 of the Agreement.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

''(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of any of the following goods:

''(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

''(iv) Goods provided for in heading 2105.

''(v) Beverages containing milk provided for in subheading 2202.90.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

''(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

''(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

''(E) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in any of headings 1501 through 1508, or any of headings 1511 through 1515.

''(F) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

''(G) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

''(H) Except as provided in subparagraphs (A) through (G) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(I) A nonoriginating material that is a textile or apparel good.

''(3) TEXTILE OR APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set forth in Annex 3–A of the Agreement, shall be considered to be an originating good if—

''(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

''(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV)) (as in effect on the date of the enactment of this Act [Dec. 14, 2007]).

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Peru, the United States, or both.

''(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Peru or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of such person.

''(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 4.1 of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether such accessories, spare parts, or tools are specified or are separately identified in the invoice for the good; and

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(3) REGIONAL VALUE-CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set forth in Annex 3–A or Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

''(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

''(*l*) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

''(1) undergoes further production or any other operation outside the territory of Peru or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Peru or the United States; or

''(2) does not remain under the control of customs authorities in the territory of a country other than Peru or the United States.

''(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 3–A and Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

''(1) each of the goods in the set is an originating good; or

''(2) the total value of the nonoriginating goods in the set does not exceed—

''(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

''(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

''(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the recognized consensus or substantial authoritative support in the territory of Peru or the United States, as the case may be, with respect to the

recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF PERU, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Peru, the United States, or both' means any of the following:

''(A) Plants and plant products harvested or gathered in the territory of Peru, the United States, or both.

''(B) Live animals born and raised in the territory of Peru, the United States, or both.

''(C) Goods obtained in the territory of Peru, the United States, or both from live animals.

''(D) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Peru, the United States, or both.

''(E) Minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken from the territory of Peru, the United States, or both.

''(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of Peru or the United States by—

''(i) a vessel that is registered or recorded with Peru and flying the flag of Peru; or

''(ii) a vessel that is documented under the laws of the United States.

''(G) Goods produced on board a factory ship from goods referred to in subparagraph (F), if such factory ship—

''(i) is registered or recorded with Peru and flies the flag of Peru; or

''(ii) is a vessel that is documented under the laws of the United States.

''(H)(i) Goods taken by Peru or a person of Peru from the seabed or subsoil outside the territorial waters of Peru, if Peru has rights to exploit such seabed or subsoil.

''(ii) Goods taken by the United States or a person of the United States from the seabed or subsoil outside the territorial waters of the United States, if the United States has rights to exploit such seabed or subsoil.

''(I) Goods taken from outer space, if the goods are obtained by Peru or the United States or a person of Peru or the United States and not processed in the territory of a country other than Peru or the United States.

''(J) Waste and scrap derived from—

''(i) manufacturing or processing operations in the territory of Peru, the United States, or both; or

''(ii) used goods collected in the territory of Peru, the United States, or both, if such goods are fit only for the recovery of raw materials.

''(K) Recovered goods derived in the territory of Peru, the United States, or both, from used goods, and used in the territory of Peru, the United States, or both, in the production of remanufactured goods.

''(L) Goods, at any stage of production, produced in the territory of Peru, the United States, or both, exclusively from—

''(i) goods referred to in any of subparagraphs (A) through (J), or

''(ii) the derivatives of goods referred to in clause (i).

''(6) IDENTICAL GOODS.—The term 'identical goods' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

''(7) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

''(8) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part or an ingredient.

''(9) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(10) MODEL LINE OF MOTOR VEHICLES.—The term 'model line of motor vehicles' means a group of motor vehicles having the same platform or model name.

''(11) NET COST.—The term 'net cost' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

''(12) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

''(13) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms 'nonoriginating good' and 'nonoriginating material' mean a good or material, as the case may be, that does not qualify as originating under this section.

''(14) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means goods used to protect another good during its transportation and does not include the packaging materials and containers in which the other good is packaged for retail sale.

''(15) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate, and the treatment under article 2.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

''(16) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Peru or the United States.

''(17) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(18) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(19) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(A) the disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(20) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Peru or the United States, or both, that is classified under chapter 84, 85, 87, or 90 or heading 9402, other than a good classified under heading 8418 or 8516, and that—

''(A) is entirely or partially comprised of recovered goods; and

''(B) has a similar life expectancy and enjoys a factory warranty similar to such a good that is new.

''(21) TOTAL COST.—

''(A) IN GENERAL.—The term 'total cost'—

''(i) means all product costs, period costs, and other costs for a good incurred in the territory of Peru, the United States, or both; and

''(ii) does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes.

''(B) OTHER DEFINITIONS.—In this paragraph:

''(i) PRODUCT COSTS.—The term 'product costs' means costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead.

''(ii) PERIOD COSTS.—The term 'period costs' means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

''(iii) OTHER COSTS.—The term 'other costs' means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

''(22) USED.—The term 'used' means utilized or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 3–A and Annex 4.1 of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title consistent with the Agreement.

''(2) FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3–B of the Agreement in an unrestricted quantity, as provided in article 3.3.5(e) of the Agreement.

''(3) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 (as included in Annex 3–A of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 14, 2007], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 3–A of the Agreement).

''(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN PERU AND THE UNITED STATES.—

''(A) IN GENERAL.—Notwithstanding paragraph (3)(A), the list of fabrics, yarns, and fibers set forth in Annex 3–B of the Agreement may be modified as provided for in this paragraph.

''(B) DEFINITIONS.—In this paragraph:

''(i) The term 'interested entity' means the Government of Peru, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

''(ii) All references to 'day' and 'days' exclude Saturdays, Sundays, and legal holidays observed by the Government of the United States.

''(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States and to add that fabric, yarn, or fiber to the list in Annex 3–B of the Agreement in a restricted or unrestricted quantity.

''(ii) After receiving a request under clause (i), the President may determine whether—

''(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in Peru or the United States; or

''(II) any interested entity objects to the request.

''(iii) The President may, within the time periods specified in clause (iv), proclaim that the fabric, yarn, or fiber that is the subject of the request is added to the list in Annex 3–B of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President has determined under clause (ii) that—

''(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States; or

''(II) no interested entity has objected to the request.

''(iv) The time periods within which the President may issue a proclamation under clause (iii) are—

''(I) not later than 30 days after the date on which a request is submitted under clause (i); or

''(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

''(v) Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

''(vi) Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3–B of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in Peru and the United States.

''(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3–B of the Agreement beginning—

''(i) 45 days after the date on which the request was submitted; or

''(ii) 60 days after the date on which the request was submitted, if the President made a determination under subparagraph (C)(iv)(II).

''(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3–B of the Agreement, any fabric, yarn, or fiber—

''(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D) of this paragraph; or

''(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

''(ii) An interested entity may submit a request under clause (i) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.

''(iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that

the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in Peru or the United States.

''(iv) A proclamation under clause (iii) shall take effect no earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

''(F) PROCEDURES.—The President shall establish procedures—

''(i) governing the submission of a request under subparagraphs (C) and (E); and

''(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C)(ii) or (vi) or (E)(iii).

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 206. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 207. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Peru to conduct a verification pursuant to article 3.2 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination of the Secretary that—

''(A) an exporter or producer in Peru is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods; or

''(B) a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 203, or

''(ii) is a good of Peru,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support that claim;

''(2) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

''(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine the country of origin of any such good; and

''(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

''(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) denial of preferential tariff treatment under the Agreement with respect to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

''(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

''(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

''(e) PUBLICATION OF NAME OF PERSON.—In accordance with article 3.2.6 of the Agreement, the Secretary may publish the name of any person that the Secretary has determined—

''(1) is engaged in circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

''(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

''SEC. 209. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 203;

''(2) the amendment made by section 204; and

''(3) any proclamation issued under section 203(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) PERUVIAN ARTICLE.—The term 'Peruvian article' means an article that qualifies as an originating good under section 203(b).

''(2) PERUVIAN TEXTILE OR APPAREL ARTICLE.—The term 'Peruvian textile or apparel article' means a textile or apparel good (as defined in section 3(4)) that is a Peruvian article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Peruvian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Peruvian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Peruvian article if, after the date on which the Agreement enters into force [Feb. 1, 2009], import relief has been provided with respect to that Peruvian article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)[(1)]), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination referred to in paragraph (1) and any finding or recommendation referred to in paragraph (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report (with the exception of information which the Commission determines to be confidential) and shall publish a summary of the report in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2.3 of the Agreement in the duty imposed on the article.

''(B) An increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Feb. 1, 2009].

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.2 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from

the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section by up to 2 years, if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date that is 9 months, and not later than the date that is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall submit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2.3 of the Agreement, would have been in effect 1 year after the provision of relief under subsection (a); and

''(2) the rate of duty for that article after December 31 of the year in which such termination occurs shall be, at the discretion of the President, either—

''(A) the applicable rate of duty for that article set forth in the Schedule of the United States to Annex 2.3 of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set forth in the Schedule of the United States to Annex 2.3 of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

''(1) any article that is subject to import relief under—

''(A) subtitle B; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

''(2) any article on which an additional duty assessed under section 202(b) is in effect.

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Feb. 1, 2009].

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set forth in the Schedule of the United States to Annex 2.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request for action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall publish in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Peruvian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and losses, and investment, no one of which is necessarily decisive; and

''(B) shall not consider changes in consumer preference or changes in technology in the United States as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in

the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Feb. 1, 2009].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under section 322(b) may not be in effect for more than 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 1 year, if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 3 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to an article if—

''(1) import relief previously has been provided under this subtitle with respect to that article; or

''(2) the article is subject to import relief under—

''(A) subtitle A; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''On the date on which import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force [Feb. 1, 2009].

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information received in connection with an investigation or determination under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, the party shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 331. FINDINGS AND ACTION ON GOODS OF PERU.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 [19 U.S.C. 1330(d)]), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article of Peru that qualify as originating goods under section 203(b) are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF PERU.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President may exclude from the action goods of Peru with respect to which the Commission has made a negative finding under subsection (a).

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.

[Amended section 2518 of this title.]

''TITLE V—TRADE IN TIMBER PRODUCTS OF PERU

''SEC. 501. ENFORCEMENT RELATING TO TRADE IN TIMBER PRODUCTS OF PERU.

''(a) ESTABLISHMENT OF INTERAGENCY COMMITTEE.—Not later than 90 days after the date on which the Agreement enters into force [Feb. 1, 2009], the President shall establish an Interagency Committee (in this section referred to as the 'Committee'). The Committee shall be responsible for overseeing the implementation of Annex 18.3.4 of the Agreement, including by undertaking such actions and making such determinations provided for in this section that are not otherwise authorized under law.

''(b) AUDIT.—The Committee may request that the Government of Peru conduct an audit, pursuant to paragraph 6(b) of Annex 18.3.4 of the Agreement, to determine whether a particular producer or exporter in Peru is complying with all applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, timber products.

''(c) VERIFICATION.—

''(1) IN GENERAL.—The Committee may request the Government of Peru to conduct a verification, pursuant to paragraph 7 of Annex 18.3.4 of the Agreement, for the purpose of determining whether, with respect to a particular shipment of timber products from Peru to the United States, the producer or exporter of the products has complied with applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, the products.

''(2) ACTIONS OF COMMITTEE.—If the Committee requests a verification under paragraph (1), the Committee shall—

''(A) to the extent authorized under law, provide the Government of Peru with trade and transit documents and other information to assist Peru in conducting the verification; and

''(B) direct U.S. Customs and Border Protection to take any appropriate action described in paragraph (4).

''(3) REQUEST TO PARTICIPATE IN VERIFICATION VISIT.—The Committee may request the Government of Peru to permit officials of any agency represented on the Committee to participate in any visit conducted by Peru of the premises of a person that is the subject of the verification requested under paragraph (1) (in this section referred to as a 'verification visit'). Such request shall be submitted in writing not later than 10 days before any scheduled verification visit and shall identify the names and titles of the officials intending to participate.

''(4) APPROPRIATE ACTION PENDING THE RESULTS OF VERIFICATION.—While the results of a verification requested under paragraph (1) are pending, the Committee may direct U.S. Customs and Border Protection to—

''(A) detain the shipment that is the subject of the verification; or

''(B) if the Committee has requested under paragraph (3) to have an official of any agency represented on the Committee participate in the verification visit and the Government of Peru has denied the request, deny entry to the shipment that is the subject of the verification.

''(5) DETERMINATION UPON RECEIPT OF REPORT.—

''(A) IN GENERAL.—Within a reasonable time after the Government of Peru provides a report to the Committee describing the results of a verification requested under paragraph (1), the Committee shall determine whether any action is appropriate.

''(B) DETERMINATION OF APPROPRIATE ACTION.—In determining the appropriate action to take and the duration of the action, the Committee shall consider any relevant factors, including—

''(i) the verification report issued by the Government of Peru;

''(ii) any information that officials of the United States have obtained regarding the shipment or person that is the subject of the verification; and

''(iii) any information that officials of the United States have obtained during a verification visit.

''(6) NOTIFICATION.—Before directing that action be taken under paragraph (7), the Committee shall notify the Government of Peru in writing of the action that will be taken and the duration of the action.

''(7) APPROPRIATE ACTION.—If the Committee makes an affirmative determination under paragraph (5), it may take any action with respect to the shipment that was the subject of the verification, or the products of the relevant producer or exporter, that the Committee considers appropriate, including directing U.S. Customs and Border Protection to—

''(A) deny entry to the shipment;

''(B) if a determination has been made that a producer or exporter has knowingly provided false information to officials of Peru or the United States regarding a shipment, deny entry to products of that producer or exporter derived from any tree species listed in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249); or

''(C) take any other action the Committee determines to be appropriate.

''(8) TERMINATION OF APPROPRIATE ACTION.—Any action under paragraph (7)(B) shall terminate not later than the later of—

''(A) the end of the period specified in the written notification pursuant to paragraph (6); or

''(B) 15 days after the date on which the Government of Peru submits to the United States the results of an audit under paragraph 6 of Annex 18.3.4 of the Agreement that concludes that the person has complied with all applicable laws, regulations, and other measures of Peru governing the harvest of, and trade in, timber products.

''(9) FAILURE TO PROVIDE VERIFICATION REPORT.—If the Committee determines that the Government of Peru has failed to provide a verification report, as required by paragraph 12 of Annex 18.3.4 of the Agreement, the Committee may take such action with respect to the relevant exporter's timber products as the Committee considers appropriate, including any action described in paragraph (7).

''(d) CONFIDENTIALITY OF INFORMATION.—The Committee and any agency represented on the Committee shall not disclose to the public, except with the specific permission of the Government of Peru, any documents or information received in the course of an audit under subsection (b) or in the course of a verification under subsection (c).

''(e) PUBLICLY AVAILABLE INFORMATION.—The Committee shall make any information exchanged with Peru under paragraph 17 of Annex 18.3.4 of the Agreement publicly available in a timely manner, in accordance with paragraph 18 of Annex 18.3.4 of the Agreement.

''(f) COORDINATION WITH OTHER LAWS.—

''(1) ENDANGERED SPECIES ACT; LACEY ACT.—In implementing this section, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury shall provide for appropriate coordination with the administration of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

''(2) OTHER LAWS.—Nothing in this section supersedes or limits in any manner the functions or authority of the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, or the Secretary of the Treasury under any other law, including laws relating to prohibited or restricted importations or possession of animals, plants, or other articles.

''(3) EFFECT OF DETERMINATION.—No determination under this section shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any law administered by the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, or the Secretary of the Treasury.

''(g) FURTHER IMPLEMENTATION.—The Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury, in consultation with the Committee, shall prescribe such regulations as are necessary to carry out this section.

''(h) RESOURCES FOR IMPLEMENTATION.—Not later than 90 days after the date on which the Agreement enters into force, and as appropriate thereafter, the President shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources, including staffing, needed to implement Annex 18.3.4 of the Agreement.

''SEC. 502. REPORT TO CONGRESS.

''(a) IN GENERAL.—The United States Trade Representative, in consultation with the appropriate agencies, including U.S. Customs and Border Protection, the United States Fish and Wildlife Service, the Animal and Plant Health Inspection Service, the Forest Service, and the Department of State, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on—

''(1) steps the United States and Peru have taken to carry out Annex 18.3.4 of the Agreement; and

''(2) activities related to forest sector governance carried out under the Environmental Cooperation Agreement entered into between the United States and Peru on July 24, 2006.

''(b) TIMING OF REPORT.—The United States Trade Representative shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives under subsection (a)—

''(1) not later than 1 year after the date on which the Agreement enters into force [Feb. 1, 2009];

''(2) not later than 2 years after the date on which the Agreement enters into force; and

''(3) periodically thereafter.

''TITLE VI—OFFSETS

''SEC. 601. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 602. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.''

[Amended section 401 of Pub. L. 109–222, 26 U.S.C. 6655 note.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 8341, Jan. 16, 2009, 74 F.R. 4105, provided in par. (4) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Peru Trade Promotion Agreement Implementation Act (Implementation Act) (Pub. L. 110–138, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the United States Trade Representative (USTR) is authorized to exercise the authority of the President under section 201(d) of the Implementation Act to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the Schedule of the United States to Annex 2.3 (not set out in the Code) of the United States-Peru Trade Promotion Agreement (Agreement) to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States, which action is set forth in Annex I of Publication 4058 (not set out in the Code); in par. (6) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 203(*o*) of the Implementation Act to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in the United States and Peru, to establish procedures governing the request for any such determination and ensuring appropriate public participation in any such determination, to add any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in the United States and Peru to the list in Annex 3–B (not set out in the Code) of the Agreement in a restricted or unrestricted quantity, to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months after adding the fabric, yarn, or fiber to the list in Annex 3–B in a restricted quantity, and to restrict the quantity of, or remove from the list in Annex 3–B, certain fabrics, yarns, or fibers; in par. (7) that the CITA is authorized to exercise the authority of the President under section 208 of the Implementation Act to exclude certain textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; in par. (8) that the CITA is authorized to exercise the functions of the President under subtitle B of title III of the Implementation Act to review requests, and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of a Peruvian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination; and in par. (10) that the USTR is authorized to fulfill the obligations of the President under section 104 of the Implementation Act to obtain advice from the appropriate advisory committees and the United States International Trade Commission on the proposed implementation of an action by presidential proclamation, to submit a report on such proposed action to the appropriate congressional committees, and to consult with those congressional committees regarding the proposed action.]

[Memorandum of President of the United States, May 1, 2009, 74 F.R. 20865, established the Interagency Committee on Trade in Timber Products from Peru pursuant to section 501 of Pub. L. 110–138, set out above, provided that the function of the President in section 501(h) of Pub. L. 110–138 is assigned to the United States Trade Representative, and directed the Secretaries of the Treasury, the Interior, Agriculture, and Homeland Security to issue, in consultation with the United States Trade Representative, such regulations and other measures as necessary or appropriate to implement section 501 of Pub. L. 110–138.]

UNITED STATES-OMAN FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 109–283, Sept. 26, 2006, 120 Stat. 1191, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Oman Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and Oman entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Oman for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Oman Free Trade Agreement approved by Congress under section 101(a)(1).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(3) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Oman Free Trade Agreement entered into on January 19, 2006, with Oman and submitted to Congress on June 26, 2006; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on June 26, 2006.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Oman has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [Jan. 1, 2009], the President is authorized to exchange notes with the Government of Oman providing for the entry into force, on or after January 1, 2007, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Sept. 26, 2006]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force [Jan. 1, 2009] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the United States International Trade Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with the Committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2006 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article 10.15.1(a)(i)(C) or article 10.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Jan. 1, 2009].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Sept. 26, 2006].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and Annex 2–B of the Agreement.

''(2) EFFECT ON OMANI GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force [Jan. 1, 2009], terminate the designation of Oman as a beneficiary devel-

oping country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Oman regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Oman provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

''(b) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

''(A) the good is imported directly—

''(i) from the territory of Oman into the territory of the United States; or

''(ii) from the territory of the United States into the territory of Oman; and

''(B)(i) the good is a good wholly the growth, product, or manufacture of Oman or the United States, or both;

''(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Oman or the United States, or both, and meets the requirements of paragraph (2); or

''(iii)(I) the good is a good covered by Annex 3–A or 4–A of the Agreement;

''(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Oman or the United States, or both; or

''(bb) the good otherwise satisfies the requirements specified in such Annex; and

''(III) the good satisfies all other applicable requirements of this section.

''(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

''(A) the value of each material produced in the territory of Oman or the United States, or both, and

''(B) the direct costs of processing operations performed in the territory of Oman or the United States, or both,

is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

''(c) CUMULATION.—

''(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good, or a material produced in the territory of Oman or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PRODUCERS.—A good that is grown, produced, or manufactured in the territory of Oman or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Oman or the United States, or both, includes the following:

''(A) The price actually paid or payable for the material by the producer of the good.

''(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

''(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

''(D) Taxes or customs duties imposed on the material by Oman or the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Oman or the United States, as the case may be.

''(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Oman or the United States, or both, includes the following:

''(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

''(B) A reasonable amount for profit.

''(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

''(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers has been included in meeting the requirements set forth in subsection (b)(2).

''(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

''(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Oman or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Oman or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Oman or the United States.

''(h) TEXTILE AND APPAREL GOODS.—

''(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns

in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Oman or the United States.

''(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 3–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(i) DEFINITIONS.—In this section:

''(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

''(A) IN GENERAL.—The term 'direct costs of processing operations', with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Oman or the United States, as the case may be, the following:

''(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel.

''(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

''(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

''(iv) Costs of inspecting and testing the good.

''(v) Costs of packaging the good for export to the territory of the other country.

''(B) EXCEPTIONS.—The term 'direct costs of processing operations' does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

''(i) profit; and

''(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

''(2) GOOD.—The term 'good' means any merchandise, product, article, or material.

''(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF OMAN OR THE UNITED STATES, OR BOTH.—The term 'good wholly the growth, product, or manufacture of Oman or the United States, or both' means—

''(A) a mineral good extracted in the territory of Oman or the United States, or both;

''(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Oman or the United States, or both;

''(C) a live animal born and raised in the territory of Oman or the United States, or both;

''(D) a good obtained from live animals raised in the territory of Oman or the United States, or both;

''(E) a good obtained from hunting, trapping, or fishing in the territory of Oman or the United States, or both;

''(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Oman or the United States and flying the flag of that country;

''(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Oman or the United States and flying the flag of that country;

''(H) a good taken by Oman or the United States or a person of Oman or the United States from the seabed or beneath the seabed outside territorial waters, if Oman or the United States, as the case may be, has rights to exploit such seabed;

''(I) a good taken from outer space, if such good is obtained by Oman or the United States or a person of Oman or the United States and not processed in the territory of a country other than Oman or the United States;

''(J) waste and scrap derived from—

''(i) production or manufacture in the territory of Oman or the United States, or both; or

''(ii) used goods collected in the territory of Oman or the United States, or both, if such goods are fit only for the recovery of raw materials;

''(K) a recovered good derived in the territory of Oman or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

''(L) a good produced in the territory of Oman or the United States, or both, exclusively—

''(i) from goods referred to in subparagraphs (A) through (J), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(4) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment and buildings;

''(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

''(5) MATERIAL.—The term 'material' means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Oman or the United States, or both.

''(6) MATERIAL PRODUCED IN THE TERRITORY OF OMAN OR THE UNITED STATES, OR BOTH.—The term 'material produced in the territory of Oman or the United States, or both' means a good that is either wholly the growth, product, or manufacture of Oman or the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Oman or the United States, or both.

''(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

''(A) IN GENERAL.—The term 'new or different article of commerce' means, except as provided in subparagraph (B), a good that—

''(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Oman or the United States, or both; and

''(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

''(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

''(8) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

''(A) the disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition.

''(9) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Oman or the United States and that—

''(A) is entirely or partially comprised of recovered goods;

''(B) has a similar life expectancy to a like good that is new; and

''(C) enjoys a factory warranty similar to that of a like good that is new.

''(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term 'simple combining or packaging operations' means operations such as adding batteries to devices, fitting together a small number of components by bolting, gluing, or soldering, and repacking or packaging components together.

''(11) SUBSTANTIALLY TRANSFORMED.—The term 'substantially transformed' means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

''(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

''(ii) the physical properties of the good or material are changed to a significant extent; or

''(iii) the operation undergone by the good or material is complex by reason of the number of different processes and materials involved and the time and level of skill required to perform those processes; and

''(B) the good or material loses its separate identity in the manufacturing or processing operation.

''(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 3–A and Annex 4–A of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title, consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Oman pursuant to article 3.2.5 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Sept. 26, 2006], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Oman to conduct a verification pursuant to article 3.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination—

''(A) that an exporter or producer in Oman is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

''(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 202, or

''(ii) is a good of Oman,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such good; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

''(1) publication of the name and address of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

''(3) denial of entry into the United States of—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''SEC. 205. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 206. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (i) of section 202;

''(2) the amendment made by section 203; and

''(3) proclamations issued under section 202(j).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) OMANI ARTICLE.—The term 'Omani article' means an article that—

''(A) qualifies as an originating good under section 202(b); or

''(B) receives preferential tariff treatment under paragraphs 8 through 11 of article 3.2 of the Agreement.

''(2) OMANI TEXTILE OR APPAREL ARTICLE.—The term 'Omani textile or apparel article' means an article that—

''(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) is an Omani article.

''(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, an Omani article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Omani article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Omani article if, after the date on which the Agreement enters into force with respect to the United States [Jan. 1, 2009], import relief has been provided with respect to that Omani article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2009].

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not, in the aggregate, be in effect for more than 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2009].

''(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of an Omani article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Oman has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, an Omani textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before

the date on which the Agreement enters into force [Jan. 1, 2009].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

''(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

''(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(2) there is evidence that the industry is making a positive adjustment to import competition.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if—

''(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force [Jan. 1, 2009]; or

''(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

''SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information that is submitted in a proceeding under this subtitle and that the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party shall also submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.''

[Amended section 2518 of this title.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 8332, Dec. 29, 2008, 73 F.R. 80290, provided in par. (4) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Oman Free Trade Agreement Implementation Act (Implementation Act) (Pub. L. 109–283, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 204 of the Implementation Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of and capability to produce goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the functions of the President under subtitle B of Title III of the Implementation Act to review requests and determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of an Omani textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 109–169, Jan. 11, 2006, 119 Stat. 3581, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Bahrain Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and Bahrain entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Bahrain for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Bahrain Free Trade Agreement approved by Congress under section 101(a)(1).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(3) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Bahrain Free Trade Agreement entered into on September 14, 2004, with Bahrain and submitted to Congress on November 16, 2005; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on November 16, 2005.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Bahrain has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [Aug. 1, 2006], the President is authorized to exchange notes with the Government of Bahrain providing for the entry into force, on or after January 1, 2006, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States; or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Jan. 11, 2006]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force [Aug. 1, 2006] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force [Aug. 1, 2006]. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the United States International Trade Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with the Committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 19 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 19 of the Agreement.

''SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Aug. 1, 2006].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Jan. 11, 2006].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and Annex 2–B of the Agreement.

''(2) EFFECT ON BAHRAINI GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force [Aug. 1, 2006], terminate the designation of Bahrain as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Bahrain regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Bahrain provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

''(b) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

''(A) the good is imported directly—

''(i) from the territory of Bahrain into the territory of the United States; or

''(ii) from the territory of the United States into the territory of Bahrain; and

''(B)(i) the good is a good wholly the growth, product, or manufacture of Bahrain or the United States, or both;

''(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Bahrain or the United States, or both, and meets the requirements of paragraph (2); or

''(iii)(I) the good is a good covered by Annex 3–A or 4–A of the Agreement;

''(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Bahrain or the United States, or both; or

''(bb) the good otherwise satisfies the requirements specified in such Annex; and

''(III) the good satisfies all other applicable requirements of this section.

''(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

''(A) the value of each material produced in the territory of Bahrain or the United States, or both, and

''(B) the direct costs of processing operations performed in the territory of Bahrain or the United States, or both,

is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

''(c) CUMULATION.—

''(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good, or a material produced in the territory of Bahrain or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PRODUCERS.—A good that is grown, produced, or manufactured in the territory of Bahrain or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Bahrain or the United States, or both, includes the following:

''(A) The price actually paid or payable for the material by the producer of the good.

''(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

''(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

''(D) Taxes or customs duties imposed on the material by Bahrain or the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Bahrain or the United States, as the case may be.

''(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Bahrain or the United States, or both, includes the following:

''(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

''(B) A reasonable amount for profit.

''(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

''(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers has been included in meeting the requirements set forth in subsection (b)(2).

''(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

''(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Bahrain or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Bahrain or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to

transport the good to the territory of Bahrain or the United States.

''(h) TEXTILE AND APPAREL GOODS.—

''(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Bahrain or the United States.

''(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 3–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(i) DEFINITIONS.—In this section:

''(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

''(A) IN GENERAL.—The term 'direct costs of processing operations', with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Bahrain or the United States, as the case may be, the following:

''(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel.

''(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

''(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

''(iv) Costs of inspecting and testing the good.

''(v) Costs of packaging the good for export to the territory of the other country.

''(B) EXCEPTIONS.—The term 'direct costs of processing operations' does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

''(i) profit; and

''(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

''(2) GOOD.—The term 'good' means any merchandise, product, article, or material.

''(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF BAHRAIN OR THE UNITED STATES, OR BOTH.—The term 'good wholly the growth, product, or manufacture of Bahrain or the United States, or both' means—

''(A) a mineral good extracted in the territory of Bahrain or the United States, or both;

''(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Bahrain or the United States, or both;

''(C) a live animal born and raised in the territory of Bahrain or the United States, or both;

''(D) a good obtained from live animals raised in the territory of Bahrain or the United States, or both;

''(E) a good obtained from hunting, trapping, or fishing in the territory of Bahrain or the United States, or both;

''(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Bahrain or the United States and flying the flag of that country;

''(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Bahrain or the United States and flying the flag of that country;

''(H) a good taken by Bahrain or the United States or a person of Bahrain or the United States from the seabed or beneath the seabed outside territorial waters, if Bahrain or the United States, as the case may be, has rights to exploit such seabed;

''(I) a good taken from outer space, if such good is obtained by Bahrain or the United States or a person of Bahrain or the United States and not processed in the territory of a country other than Bahrain or the United States;

''(J) waste and scrap derived from—

''(i) production or manufacture in the territory of Bahrain or the United States, or both; or

''(ii) used goods collected in the territory of Bahrain or the United States, or both, if such goods are fit only for the recovery of raw materials;

''(K) a recovered good derived in the territory of Bahrain or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

''(L) a good produced in the territory of Bahrain or the United States, or both, exclusively—

''(i) from goods referred to in subparagraphs (A) through (J), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(4) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment and buildings;

''(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

''(5) MATERIAL.—The term 'material' means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Bahrain or the United States, or both.

''(6) MATERIAL PRODUCED IN THE TERRITORY OF BAHRAIN OR THE UNITED STATES, OR BOTH.—The term 'material produced in the territory of Bahrain or the United States, or both' means a good that is either wholly the growth, product, or manufacture of Bahrain or the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Bahrain or the United States, or both.

''(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

''(A) IN GENERAL.—The term 'new or different article of commerce' means, except as provided in subparagraph (B), a good that—

''(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Bahrain or the United States, or both; and

''(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

''(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

''(8) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

''(A) the complete disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing of those parts that is necessary for improvement to sound working condition.

''(9) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Bahrain or the United States and that—

''(A) is entirely or partially comprised of recovered goods;

''(B) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and

''(C) enjoys a factory warranty similar to that of a like good that is new.

''(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term 'simple combining or packaging operations' means operations such as adding batteries to devices, fitting together a small number of components by bolting, gluing, or soldering, and repacking or packaging components together.

''(11) SUBSTANTIALLY TRANSFORMED.—The term 'substantially transformed' means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

''(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

''(ii) the physical properties of the good or material are changed to a significant extent; or

''(iii) the operation undergone by the good or material is complex by reason of the number of different processes and materials involved and the time and level of skill required to perform those processes; and

''(B) the good or material loses its separate identity in the manufacturing or processing operation.

''(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set forth in Annex 3–A and Annex 4–A of the Agreement; and

''(B) any additional subordinate category that is necessary to carry out this title, consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Bahrain pursuant to article 3.2.5 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Jan. 11, 2006], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Bahrain to conduct a verification pursuant to article 3.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination—

''(A) that an exporter or producer in Bahrain is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

''(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 202; or

''(ii) is a good of Bahrain, is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such good; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

''(1) publication of the name and address of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification

referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

''(3) denial of entry into the United States of—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''SEC. 205. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (i) of section 202;

''(2) the amendment made by section 203(2); and

''(3) proclamations issued under section 202(j).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) BAHRAINI ARTICLE.—The term 'Bahraini article' means an article that—

''(A) qualifies as an originating good under section 202(b); or

''(B) receives preferential tariff treatment under paragraphs 8 through 11 of article 3.2 of the Agreement.

''(2) BAHRAINI TEXTILE OR APPAREL ARTICLE.—The term 'Bahraini textile or apparel article' means an article that—

''(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) is a Bahraini article.

''(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Bahraini article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Bahraini article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Bahraini article if, after the date on which the Agreement enters into force with respect to the United States [Aug. 1, 2006], import relief has been provided with respect to that Bahraini article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

''(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c).

''(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will

not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Aug. 1, 2006].

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not, in the aggregate, be in effect for more than 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) REPORT.—The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Aug. 1, 2006].

''(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of a Bahraini article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Bahrain has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Bahraini textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Aug. 1, 2006].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

''(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

''(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(2) there is evidence that the industry is making a positive adjustment to import competition.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if—

''(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force [Aug. 1, 2006]; or

''(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

''SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

''The President may not release information that is submitted in a proceeding under this subtitle and that the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party shall also submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.''

[Amended section 2518 of this title.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 8039, July 27, 2006, 71 F.R. 43636, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Bahrain Free Trade Agreement Implementation Act (USBFTA Act) (Pub. L. 109–169, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 204 of the USBFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of and capability to produce goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under subtitle B of Title III of the USBFTA Act to review requests and determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of a Bahraini textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–302, Aug. 17, 2004, 118 Stat. 1103, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Morocco Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and Morocco entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Morocco for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Morocco Free Trade Agreement approved by Congress under section 101(a)(1).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(3) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to

in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Morocco Free Trade Agreement entered into on June 15, 2004, with Morocco and submitted to Congress on July 15, 2004; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 15, 2004.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Morocco has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [July 1, 2005], the President is authorized to exchange notes with the Government of Morocco providing for the entry into force, on or after January 1, 2005, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Aug. 17, 2004]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [July 1, 2005] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force [July 1, 2005] of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force [July 1, 2005]. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the United States International Trade Commission;

''(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''The United States is authorized to resolve any claim against the United States covered by article

10.15.1(a)(i)(C) or article 10.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [July 1, 2005].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Aug. 17, 2004].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 4.1, 4.3.9, 4.3.10, 4.3.11, 4.3.13, 4.3.14, and 4.3.15, and Annex IV of the Agreement.

''(2) EFFECT ON MOROCCAN GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of Morocco as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date of entry into force of the Agreement [July 1, 2005].

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Morocco regarding the staging of any duty treatment set forth in Annex IV of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Morocco provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex IV of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) DEFINITIONS.—In this section:

''(1) AGRICULTURAL SAFEGUARD GOOD.—The term 'agricultural safeguard good' means a good—

''(A) that qualifies as an originating good under section 203;

''(B) that is included in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement; and

''(C) for which a claim for preferential treatment under the Agreement has been made.

''(2) APPLICABLE NTR (MFN) RATE OF DUTY.—The term 'applicable NTR (MFN) rate of duty' means, with respect to an agricultural safeguard good, a rate of duty that is the lesser of—

''(A) the column 1 general rate of duty that would have been imposed under the HTS on the same agricultural safeguard good entered, without a claim for preferential tariff treatment, on the date on which the additional duty is imposed under subsection (b); or

''(B) the column 1 general rate of duty that would have been imposed under the HTS on the same agricultural safeguard good entered, without a claim for preferential tariff treatment, on December 31, 2004.

''(3) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(4) SCHEDULE RATE OF DUTY.—The term 'schedule rate of duty' means, with respect to an agricultural safeguard good, the rate of duty for that good set out in the Tariff Schedule of the United States to Annex IV of the Agreement.

''(5) TRIGGER PRICE.—The 'trigger price' for a good means the trigger price indicated for that good in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement or any amendment thereto.

''(6) UNIT IMPORT PRICE.—The 'unit import price' of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the U.S. Agricultural Safeguard List set forth in Annex 3–A of the Agreement.

''(b) ADDITIONAL DUTIES ON AGRICULTURAL SAFEGUARD GOODS.—

''(1) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to paragraphs (3), (4), (5), and (6) of this subsection, the Secretary of the Treasury shall assess a duty on an agricultural safeguard good, in the amount determined under paragraph (2), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

''(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on an agricultural safeguard good shall be an amount determined in accordance with the following table:

If the excess of the trigger price over the unit import price is:	The additional duty is an amount equal to:
Not more than 10 percent of the trigger price	0.
More than 10 percent but not more than 40 percent of the trigger price	30 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.
More than 40 percent but not more than 60 percent of the trigger price	50 percent of such excess.
More than 60 percent but not more than 75 percent of the trigger price	70 percent of such excess.
More than 75 percent of the trigger price	100 percent of such excess.

''(3) EXCEPTIONS.—No additional duty shall be assessed on a good under this subsection if, at the time of entry, the good is subject to import relief under—

''(A) subtitle A of title III of this Act; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(4) TERMINATION.—The assessment of an additional duty on a good under this subsection shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the

Tariff Schedule of the United States to Annex IV of the Agreement.

''(5) TARIFF-RATE QUOTAS.—If an agricultural safeguard good is subject to a tariff-rate quota under the Agreement, any additional duty assessed under this subsection shall be applied only to over-quota imports of the good.

''(6) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under this subsection, the Secretary shall notify the Government of Morocco in writing of such action and shall provide to the Government of Morocco data supporting the assessment of additional duties.

''SEC. 203. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or sub-heading, such reference shall be a reference to a heading or subheading of the HTS.

''(b) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

''(A) the good is imported directly—

''(i) from the territory of Morocco into the territory of the United States; or

''(ii) from the territory of the United States into the territory of Morocco; and

''(B)(i) the good is a good wholly the growth, product, or manufacture of Morocco or the United States, or both;

''(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both, and meets the requirements of paragraph (2); or

''(iii)(I) the good is a good covered by Annex 4–A or 5–A of the Agreement;

''(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Morocco or the United States, or both; or

''(bb) the good otherwise satisfies the requirements specified in such Annex; and

''(III) the good satisfies all other applicable requirements of this section.

''(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

''(A) the value of each material produced in the territory of Morocco or the United States, or both, and

''(B) the direct costs of processing operations performed in the territory of Morocco or the United States, or both,

is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

''(c) CUMULATION.—

''(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good or a material produced in the territory of Morocco or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is grown, produced, or manufactured in the territory of Morocco or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(d) VALUE OF MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Morocco or the United States, or both, includes the following:

''(A) The price actually paid or payable for the material by the producer of such good.

''(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

''(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

''(D) Taxes or customs duties imposed on the material by Morocco, the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Morocco or the United States, as the case may be.

''(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Morocco or the United States, or both, includes the following:

''(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

''(B) A reasonable amount for profit.

''(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

''(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers have been included in meeting the requirements set forth in subsection (b)(2).

''(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

''(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Morocco or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Morocco or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of the United States or Morocco.

''(h) TEXTILE AND APPAREL GOODS.—

''(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Morocco or the United States.

''(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fi-

bers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(i) DEFINITIONS.—In this section:

''(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

''(A) IN GENERAL.—The term 'direct costs of processing operations', with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Morocco or the United States, as the case may be, the following:

''(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the costs of engineering, supervisory, quality control, and similar personnel.

''(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

''(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

''(iv) Costs of inspecting and testing the good.

''(v) Costs of packaging the good for export to the territory of the other country.

''(B) EXCEPTIONS.—The term 'direct costs of processing operations' does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

''(i) profit; and

''(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

''(2) GOOD.—The term 'good' means any merchandise, product, article, or material.

''(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF MOROCCO, THE UNITED STATES, OR BOTH.—The term 'good wholly the growth, product, or manufacture of Morocco, the United States, or both' means—

''(A) a mineral good extracted in the territory of Morocco or the United States, or both;

''(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Morocco or the United States, or both;

''(C) a live animal born and raised in the territory of Morocco or the United States, or both;

''(D) a good obtained from live animals raised in the territory of Morocco or the United States, or both;

''(E) a good obtained from hunting, trapping, or fishing in the territory of Morocco or the United States, or both;

''(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Morocco or the United States and flying the flag of that country;

''(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Morocco or the United States and flying the flag of that country;

''(H) a good taken by Morocco or the United States or a person of Morocco or the United States from the seabed or beneath the seabed outside territorial waters, if Morocco or the United States has rights to exploit such seabed;

''(I) a good taken from outer space, if such good is obtained by Morocco or the United States or a person of Morocco or the United States and not processed in the territory of a country other than Morocco or the United States;

''(J) waste and scrap derived from—

''(i) production or manufacture in the territory of Morocco or the United States, or both; or

''(ii) used goods collected in the territory of Morocco or the United States, or both, if such goods are fit only for the recovery of raw materials;

''(K) a recovered good derived in the territory of Morocco or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

''(L) a good produced in the territory of Morocco or the United States, or both, exclusively—

''(i) from goods referred to in subparagraphs (A) through (J), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(4) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment and buildings;

''(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

''(5) MATERIAL.—The term 'material' means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Morocco, the United States, or both.

''(6) MATERIAL PRODUCED IN THE TERRITORY OF MOROCCO OR THE UNITED STATES, OR BOTH.—The term 'material produced in the territory of Morocco or the United States, or both' means a good that is either wholly the growth, product, or manufacture of Morocco, the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Morocco or the United States, or both.

''(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

''(A) IN GENERAL.—The term 'new or different article of commerce' means, except as provided in subparagraph (B), a good that—

''(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Morocco, the United States, or both; and

''(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

''(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

''(8) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

''(A) the complete disassembly of used goods into individual parts; and

''(B) the cleaning, inspecting, testing, or other processing of those parts that is necessary for improvement to sound working condition.

''(9) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Morocco or the United States and that—

''(A) is entirely or partially comprised of recovered goods;

''(B) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and

''(C) enjoys a factory warranty similar to that of a like good that is new.

''(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term 'simple combining or packaging operations' means operations such as adding batteries to electronic devices, fitting together a small number of components by bolting, gluing, or soldering, or packing or repacking components together.

''(11) SUBSTANTIALLY TRANSFORMED.—The term 'substantially transformed' means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

''(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

''(ii) the physical properties of the good or material are changed to a significant extent; or

''(iii) the operation undergone by the good or material is complex by reason of the number of processes and materials involved and the time and level of skill required to perform those processes; and

''(B) the good or material loses its separate identity in the manufacturing or processing operation.

''(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set out in Annex 4–A and Annex 5–A of the Agreement; and

''(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Morocco pursuant to article 4.3.6 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Aug. 17, 2004], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Morocco to conduct a verification pursuant to article 4.4 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination—

''(A) that an exporter or producer in Morocco is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

''(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 203 of this Act, or

''(ii) is a good of Morocco,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

''(1) publication of the name and address of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

''(3) denial of entry into the United States of—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''SEC. 205. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (i) of section 203;

''(2) amendments to existing law made by the subsections referred to in paragraph (1); and

''(3) proclamations issued under section 203(j).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) MOROCCAN ARTICLE.—The term 'Moroccan article' means an article that qualifies as an originating good under section 203(b) of this Act or receives preferential tariff treatment under paragraphs 9 through 15 of article 4.3 of the Agreement.

''(2) MOROCCAN TEXTILE OR APPAREL ARTICLE.—The term 'Moroccan textile or apparel article' means an article that—

''(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) is a Moroccan article.

''(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

''(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Moroccan article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Moroccan article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Moroccan article if, after the date on which the Agreement enters into force [July 1, 2005], import relief has been provided with respect to that Moroccan article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex IV of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [July 1, 2005].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 5 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that—

''(1) is subject to an assessment of additional duty under section 202(b); or

''(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force [July 1, 2005].

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle with respect to a good after the date that is 5 years after the date on which duty-free treatment must be provided by the United States to that good pursuant to Annex IV of the Agreement.

''(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of a Moroccan article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Morocco has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Moroccan textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [July 1, 2005].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 5 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if—

''(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force [July 1, 2005]; or

''(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.''

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 7971, Dec. 22, 2005, 70 F.R. 76652, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Morocco Free Trade Agreement Implementation Act (USMFTA Act) (Pub. L. 108–302, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 204 of the USMFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of and capability to produce goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under subtitle B of Title III of the USMFTA Act to review requests and determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of a Moroccan textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–286, Aug. 3, 2004, 118 Stat. 919, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Australia Free Trade Agreement Implementation Act'.

(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and Australia, entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

''(2) to strengthen and develop economic relations between the United States and Australia for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Australia Free Trade Agreement approved by Congress under section 101(a)(1).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(3) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Australia Free Trade Agreement entered into on May 18, 2004, with the Government of Australia and submitted to Congress on July 6, 2004; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 6, 2004.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Australia has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force [Jan. 1, 2005], the President is authorized to exchange notes with the Government of Australia providing for the entry into force, on or after January 1, 2005, of the Agreement with respect to the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act [Aug. 3, 2004]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2005] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

''(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104, may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force [Jan. 1, 2005] of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force [Jan. 1, 2005], initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the United States International Trade Commission;

''(2) the President has submitted a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

''SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force [Jan. 1, 2005].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Aug. 3, 2004].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such continuation of duty-free or excise treatment, or

''(3) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, and 2.6, and Annex 2–B of the Agreement.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Australia regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Australia provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

''(a) GENERAL PROVISIONS.—

''(1) APPLICABILITY OF SUBSECTION.—This subsection applies to additional duties assessed under subsections (b), (c), and (d).

''(2) APPLICABLE NTR (MFN) RATE OF DUTY.—For purposes of subsections (b), (c), and (d), the term 'applicable NTR (MFN) rate of duty' means, with respect to a safeguard good, a rate of duty that is the lesser of—

''(A) the column 1 general rate of duty that would have been imposed under the HTS on the same safeguard good entered, without a claim for preferential treatment, at the time the additional duty is imposed under subsection (b), (c), or (d), as the case may be; or

''(B) the column 1 general rate of duty that would have been imposed under the HTS on the same safeguard good entered, without a claim for preferential treatment, on December 31, 2004.

''(3) SCHEDULE RATE OF DUTY.—For purposes of subsections (b) and (c), the term 'schedule rate of duty' means, with respect to a safeguard good, the rate of duty for that good set out in the Schedule of the United States to Annex 2–B of the Agreement.

''(4) SAFEGUARD GOOD.—In this subsection, the term 'safeguard good' means—

''(A) a horticulture safeguard good described [in] subsection (b)(1)(B); or

''(B) a beef safeguard good described in subsection (c)(1) or subsection (d)(1)(A).

''(5) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b), (c), or (d) if, at the time of entry, the good is subject to import relief under—

''(A) subtitle A of title III of this Act; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(6) TERMINATION.—The assessment of an additional duty on a good under subsection (b) or (c), whichever is applicable, shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 2–B of the Agreement.

''(7) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under subsection (b), (c), or (d), the Secretary shall notify the Government of Australia in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

''(b) ADDITIONAL DUTIES ON HORTICULTURE SAFEGUARD GOODS.—

''(1) DEFINITIONS.—In this subsection:

''(A) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(B) HORTICULTURE SAFEGUARD GOOD.—The term 'horticulture safeguard good' means a good—

''(i) that qualifies as an originating good under section 203;

''(ii) that is included in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement; and

''(iii) for which a claim for preferential treatment under the Agreement has been made.

''(C) UNIT IMPORT PRICE.—The 'unit import price' of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement.

''(D) TRIGGER PRICE.—The 'trigger price' for a good is the trigger price indicated for that good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement or any amendment thereto.

''(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section, the Secretary of the Treasury shall assess a duty on a horticulture safeguard good, in the amount determined under paragraph (3), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

''(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on a horticulture safeguard good shall be an amount determined in accordance with the following table:

"If the excess of the trigger price over the unit import price is:	**The additional duty is an amount equal to:**
Not more than 10 percent of the trigger price	0.
More than 10 percent but not more than 40 percent of the trigger price	30 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.
More than 40 percent but not more than 60 percent of the trigger price	50 percent of such excess.
More than 60 percent but not more than 75 percent of the trigger price	70 percent of such excess.
More than 75 percent of the trigger price	100 percent of such excess.

''(c) ADDITIONAL DUTIES ON BEEF SAFEGUARD GOODS BASED ON QUANTITY OF IMPORTS.—

''(1) DEFINITION.—In this subsection, the term 'beef safeguard good' means a good—

''(A) that qualifies as an originating good under section 203;

''(B) that is listed in paragraph 3 of Annex I of the General Notes to the Schedule of the United States to Annex 2–B of the Agreement; and

''(C) for which a claim for preferential treatment under the Agreement has been made.

''(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) and (5) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (3), on a beef safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of beef safeguard goods imported into the United States in that calendar year is equal to or greater than 110 percent of the volume set out for beef safeguard goods in the corresponding year in the table contained in paragraph 3(a) of Annex I of the General Notes to the Schedule of the United States to Annex 2–B of the Agreement. For purposes of this subsection, the years 1 through 19 set out in the table contained in paragraph 3(a) of such Annex I correspond to the calendar years 2005 through 2023.

''(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a beef safeguard good under this subsection shall be an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

''(4) WAIVER.—

''(A) IN GENERAL.—The United States Trade Representative is authorized to waive the application of this subsection, if the Trade Representative determines that extraordinary market conditions demonstrate that the waiver would be in the national interest of the United States, after the requirements of subparagraph (B) are met.

''(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

''(i) appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

''(I) the reasons supporting the determination to grant the waiver; and

''(II) the proposed scope and duration of the waiver.

''(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

''(5) EFFECTIVE DATES.—This subsection takes effect on January 1, 2013, and shall not be effective after December 31, 2022.

''(d) ADDITIONAL DUTIES ON BEEF SAFEGUARD GOODS BASED ON PRICE.—

''(1) DEFINITIONS.—In this subsection:

''(A) BEEF SAFEGUARD GOOD.—The term 'beef safeguard good' means a good—

''(i) that qualifies as an originating good under section 203;

''(ii) that is classified under subheading 0201.10.50, 0201.20.80, 0201.30.80, 0202.10.50, 0202.20.80, or 0202.30.80 of the HTS; and

''(iii) for which a claim for preferential treatment under the Agreement has been made.

''(B) CALENDAR QUARTER.—

''(i) IN GENERAL.—The term 'calendar quarter' means any 3-month period beginning on January 1, April 1, July 1, or October 1 of a calendar year.

''(ii) FIRST CALENDAR QUARTER.—The term 'first calendar quarter' means the calendar quarter beginning on January 1.

''(iii) SECOND CALENDAR QUARTER.—The term 'second calendar quarter' means the calendar quarter beginning on April 1.

''(iv) THIRD CALENDAR QUARTER.—The term 'third calendar quarter' means the calendar quarter beginning on July 1.

''(v) FOURTH CALENDAR QUARTER.—The term 'fourth calendar quarter' means the calendar quarter beginning on October 1.

''(C) MONTHLY AVERAGE INDEX PRICE.—The term 'monthly average index price' means the simple average, as determined by the Secretary of Agriculture, for a calendar month of the daily average index prices for Wholesale Boxed Beef Cut-Out Value Select 1–3 Central U.S. 600–750 lbs., or its equivalent, as such simple average is reported by the Agricultural Marketing Service of the Department of Agriculture in Report LM–XB459 or any equivalent report.

''(D) 24-MONTH TRIGGER PRICE.—The term '24-month trigger price' means, with respect to any calendar month, the average of the monthly average index prices for the 24 preceding calendar months, multiplied by 0.935.

''(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) through (6) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (3), on a beef safeguard good imported into the United States if—

''(A)(i) the good is imported in the first calendar quarter, second calendar quarter, or third calendar quarter of a calendar year; and

''(ii) the monthly average index price, in any 2 calendar months of the preceding calendar quarter, is less than the 24-month trigger price; or

''(B)(i) the good is imported in the fourth calendar quarter of a calendar year; and

''(ii)(I) the monthly average index price, in any 2 calendar months of the preceding calendar quarter, is less than the 24-month trigger price; or

''(II) the monthly average index price, in any of the 4 calendar months preceding January 1 of the succeeding calendar year, is less than the 24-month trigger price.

''(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a beef safeguard good under this subsection shall be an amount equal to 65 percent of the applicable NTR (MFN) rate of duty for that good.

''(4) LIMITATION.—An additional duty shall be assessed under this subsection on a beef safeguard good imported into the United States in a calendar year only if, prior to the importation of that good, the total quantity of beef safeguard goods imported into the United States in that calendar year is equal to or greater than the sum of—

''(A) the quantity of goods of Australia eligible to enter the United States in that year specified in Additional United States Note 3 to Chapter 2 of the HTS; and

''(B)(i) in 2023, 70,420 metric tons; or

''(ii) in 2024, and in each year thereafter, a quantity that is 0.6 percent greater than the quantity provided for in the preceding year under this subparagraph.

''(5) WAIVER.—

''(A) IN GENERAL.—The United States Trade Representative is authorized to waive the application of this subsection, if the Trade Representative determines that extraordinary market conditions demonstrate that the waiver would be in the national interest of the United States, after the requirements of subparagraph (B) are met.

''(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

''(i) appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

''(I) the reasons supporting the determination to grant the waiver; and

''(II) the proposed scope and duration of the waiver.

''(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

''(6) EFFECTIVE DATE.—This subsection takes effect on January 1, 2023.

''SEC. 203. RULES OF ORIGIN.

''(a) APPLICATION AND INTERPRETATION.—In this section:

''(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

''(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

''(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Australia or the United States).

''(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential treatment provided for under the Agreement, a good is an originating good if—

''(1) the good is a good wholly obtained or produced entirely in the territory of Australia, the United States, or both;

''(2) the good—

''(A) is produced entirely in the territory of Australia, the United States, or both, and—

''(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4–A or Annex 5–A of the Agreement;

''(ii) the good otherwise satisfies any applicable regional value-content requirement referred to in Annex 5–A of the Agreement; or

''(iii) the good meets any other requirements specified in Annex 4–A or Annex 5–A of the Agreement; and

''(B) the good satisfies all other applicable requirements of this section;

''(3) the good is produced entirely in the territory of Australia, the United States, or both, exclusively from materials described in paragraph (1) or (2); or

''(4) the good otherwise qualifies as an originating good under this section.

''(c) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 5–A of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials that—

''(i) are used in the production of the good, and

''(ii) do not undergo the required change in tariff classification,

does not exceed 10 percent of the adjusted value of the good;

''(B) the good meets all other applicable requirements of this section; and

''(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 that is used in the production of a good provided for in chapter 4 of the HTS.

''(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 that is used in the production of a good provided for in subheading 1901.10, 1901.20, or 1901.90, heading 2105, or subheading 2106.90, 2202.90, or 2309.90.

''(C) A nonoriginating material provided for in heading 0805 or any of subheadings 2009.11 through 2009.39 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in subheading 2106.90 or 2202.90.

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, or in heading 1512, 1514, or 1515.

''(E) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

''(F) A nonoriginating material provided for in chapter 17 of the HTS or heading 1805.00.00 that is used in the production of a good provided for in subheading 1806.10.

''(G) A nonoriginating material provided for in any of headings 2203 through 2208 that is used in the production of a good provided for in heading 2207 or 2208.

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) TEXTILE AND APPAREL GOODS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Australia or the United States.

''(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term 'component of the good that determines the tariff classification of the good' means all of the fibers in the yarn, fabric, or group of fibers.

''(d) ACCUMULATION.—

''(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF OTHER COUNTRY.—Originating materials from the territory of Australia or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Australia, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

''(e) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 5–A of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in para-

graph (2) or the build-up method described in paragraph (3).

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) RVC.—The term 'RVC' means the regional value-content of the good, expressed as a percentage.

''(ii) AV.—The term 'AV' means the adjusted value of the good.

''(iii) VOM.—The term 'VOM' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

''(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

''(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 5–A of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

''(B) DEFINITIONS.—In subparagraph (A):

''(i) AUTOMOTIVE GOOD.—The term 'automotive good' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

''(ii) RVC.—The term 'RVC' means the regional value-content of the automotive good, expressed as a percentage.

''(iii) NC.—The term 'NC' means the net cost of the automotive good.

''(iv) VNM.—The term 'VNM' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

''(C) MOTOR VEHICLES.—

''(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

''(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

''(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Australia.

''(ii) CATEGORIES.—A category is described in this clause if it—

''(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated;

''(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

''(III) is the same model line of motor vehicles produced in either the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated.

''(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

''(i) average the amounts calculated under the formula contained in subparagraph (A) over—

''(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

''(II) any quarter or month, or

''(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

''(ii) determine the average referred to in clause (i) separately for such goods sold to one or more motor vehicle producers; or

''(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of the United States or Australia.

''(E) CALCULATING NET COST.—Consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, the net cost of the automotive good under subparagraph (B) shall be calculated by—

''(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

''(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

''(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

''(f) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (e), and for purposes of applying the de minimis rules under subsection (c), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, the value, de-

termined in accordance with Articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

''(C) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit equivalent to the profit added in the normal course of trade.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of processing incurred in the territory of Australia, the United States, or both, in the production of the nonoriginating material.

''(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Australia, the United States, or both.

''(g) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 5–A of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are not invoiced separately from the good;

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

''(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(h) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Australia or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

''(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4–A or Annex 5–A of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether—

''(1) the nonoriginating materials used in the production of a good undergo the applicable change in tariff classification set out in Annex 4–A or Annex 5–A of the Agreement; and

''(2) the good satisfies a regional value-content requirement.

''(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

''(*l*) THIRD COUNTRY OPERATIONS.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Australia or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Australia or the United States.

''(m) TEXTILE AND APPAREL GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

''(2) CLASS OF MOTOR VEHICLES.—The term 'class of motor vehicles' means any one of the following categories of motor vehicles:

''(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

''(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

''(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

''(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

''(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term 'fungible good' or 'fungible material' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

''(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the recognized consensus or substantial authoritative support in the territory of Australia or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

''(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF AUSTRALIA, THE UNITED STATES, OR BOTH.—The term 'good wholly obtained or produced entirely in the territory of Australia, the United States, or both' means—

''(A) a mineral good extracted in the territory of Australia, the United States, or both;

''(B) a vegetable good, as such goods are provided for in the HTS, harvested in the territory of Australia, the United States, or both;

''(C) a live animal born and raised in the territory of Australia, the United States, or both;

''(D) a good obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Australia, the United States, or both;

''(E) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Australia or the United States and flying the flag of that country;

''(F) a good produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Australia or the United States and flying the flag of that country;

''(G) a good taken by Australia or the United States or a person of Australia or the United States from the seabed or beneath the seabed outside territorial waters, if Australia or the United States has rights to exploit such seabed;

''(H) a good taken from outer space, if such good is obtained by Australia or the United States or a person of Australia or the United States and not processed in the territory of a country other than Australia or the United States;

''(I) waste and scrap derived from—

''(i) production in the territory of Australia, the United States, or both; or

''(ii) used goods collected in the territory of Australia, the United States, or both, if such goods are fit only for the recovery of raw materials;

''(J) a recovered good derived in the territory of Australia or the United States from goods that have passed their life expectancy, or are no longer usable due to defects, and utilized in the territory of that country in the production of remanufactured goods; or

''(K) a good produced in the territory of Australia, the United States, or both, exclusively—

''(i) from goods referred to in any of subparagraphs (A) through (I), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

''(7) MATERIAL.—The term 'material' means a good that is used in the production of another good.

''(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means an originating material that is produced by a producer of a good and used in the production of that good.

''(9) MODEL LINE.—The term 'model line' means a group of motor vehicles having the same platform or model name.

''(10) NONALLOWABLE INTEREST COSTS.—The term 'nonallowable interest costs' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country (whether Australia or the United States).

''(11) NONORIGINATING MATERIAL.—The term 'nonoriginating material' means a material that does not qualify as originating under this section.

''(12) PREFERENTIAL TREATMENT.—The term 'preferential treatment' means the customs duty rate, and the treatment under article 2.12 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

''(13) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Australia or the United States.

''(14) PRODUCTION.—The term 'production' means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(15) REASONABLY ALLOCATE.—The term 'reasonably allocate' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

''(16) RECOVERED GOODS.—The term 'recovered goods' means materials in the form of individual parts that result from—

''(A) the complete disassembly of goods which have passed their life expectancy, or are no longer usable due to defects, into individual parts; and

''(B) the cleaning, inspecting, or testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

''(17) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good that is assembled in the territory of Australia or the United States, that is classified under chapter 84, 85, or 87 of the HTS or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516 or any of headings 8701 through 8706, and that—

''(A) is entirely or partially comprised of recovered goods;

''(B) has a similar life expectancy to, and meets the same performance standards as, a like good that is new; and

''(C) enjoys a factory warranty similar to a like good that is new.

''(18) TOTAL COST.—The term 'total cost' means all product costs, period costs, and other costs for a good incurred in the territory of Australia, the United States, or both.

''(19) USED.—The term 'used' means used or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set out in Annex 4–A and Annex 5–A of the Agreement; and

''(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Australia pursuant to article 4.2.5 of the Agreement; and

''(ii) before the end of the 1-year period beginning on the date of the enactment of this Act [Aug. 3, 2004], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION.

[Amended section 1592 of this title.]

''SEC. 206. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) ACTION DURING VERIFICATION.—

''(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Australia to conduct a verification pursuant to article 4.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(2) DETERMINATION.—A determination under this paragraph is a determination—

''(A) that an exporter or producer in Australia is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

''(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

''(i) qualifies as an originating good under section 203 of this Act; or

''(ii) is a good of Australia,

is accurate.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

''(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

''(1) publication of the name and address of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

''(3) denial of entry into the United States of—

''(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

''(B) a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

''SEC. 207. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 203 and section 204;

''(2) amendments to existing law made by the sections referred to in paragraph (1); and

''(3) proclamations issued under section 203(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''As used in this title:

''(1) AUSTRALIAN ARTICLE.—The term 'Australian article' means an article that qualifies as an originating good under section 203(b) of this Act.

''(2) AUSTRALIAN TEXTILE OR APPAREL ARTICLE.—The term 'Australian textile or apparel article' means an article—

''(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) that is an Australian article.

''(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

''(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, an Australian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Australian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Australian article if, after the date on which the Agreement enters into force [Jan. 1, 2005], import relief has been provided with respect to that Australian article under this subtitle.

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) [sic] (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2005].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 9.2.7 of the Agreement) of such relief at regular intervals during the period in which the relief is in effect.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2–B of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the provision of relief under subsection (a); and

''(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

''(A) the applicable NTR (MFN) rate of duty for that article set out in the Schedule of the United States to Annex 2–B of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 2–B of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that—

''(1) is subject to—

''(A) import relief under subtitle B; or

''(B) an assessment of additional duty under subsection (b), (c), or (d) of section 202; or

''(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force [Jan. 1, 2005].

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2005].

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 2–B of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which such period ends.

''(c) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of an Australian article after the date on which such relief would, but for this subsection, terminate under subsection (a) or (b), if the President determines that Australia has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) ALLEGATION OF CRITICAL CIRCUMSTANCES.—An interested party filing a request under this section may—

''(1) allege that critical circumstances exist such that delay in the provision of relief would cause damage that would be difficult to repair; and

''(2) based on such allegation, request that relief be provided on a provisional basis.

''(c) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(c), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, an Australian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2005].

''(c) CRITICAL CIRCUMSTANCES.—

''(1) PRESIDENTIAL DETERMINATION.—When a request filed under section 321(a) contains an allegation of critical circumstances and a request for provisional relief under section 321(b), the President shall, not later than 60 days after the request is filed, determine, on the basis of available information, whether—

''(A) there is clear evidence that—

''(i) imports from Australia have increased as the result of the reduction or elimination of a customs duty under the Agreement; and

''(ii) such imports are causing serious damage, or actual threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and

''(B) delay in taking action under this subtitle would cause damage to that industry that would be difficult to repair.

''(2) EXTENT OF PROVISIONAL RELIEF.—If the determinations under subparagraphs (A) and (B) of paragraph (1) are affirmative, the President shall determine the extent of provisional relief that is necessary to remedy or prevent the serious damage. The nature of the provisional relief available shall be the relief described in subsection (b)(2). Within 30 days after making affirmative determinations under subparagraphs (A) and (B) of paragraph (1), the President, if the President considers provisional relief to be warranted, shall provide, for a period not to exceed 200 days, such provisional relief that the President considers necessary to remedy or prevent the serious damage.

''(3) SUSPENSION OF LIQUIDATION.—If provisional relief is provided under paragraph (2), the President shall order the suspension of liquidation of all imported articles subject to the affirmative determinations under subparagraphs (A) and (B) of paragraph (1) that are entered, or withdrawn from warehouse for consumption, on or after the date of the determinations.

''(4) TERMINATION OF PROVISIONAL RELIEF.—

''(A) IN GENERAL.—Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

''(i) the President makes a negative determination under subsection (a) regarding serious damage or actual threat thereof by imports of such article;

''(ii) action described in subsection (b) takes effect with respect to such article;

''(iii) a decision by the President not to take any action under subsection (b) with respect to such article becomes final; or

''(iv) the President determines that, because of changed circumstances, such relief is no longer warranted.

''(B) SUSPENSION OF LIQUIDATION.—Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the day on which provisional relief is terminated under subparagraph (A) with respect to the article.

''(C) RATES OF DUTY.—If an increase in, or the imposition of, a duty that is provided under subsection (b) on an imported article is different from a duty increase or imposition that was provided for such an article under this subsection, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

''(D) RATE OF DUTY IF PROVISIONAL RELIEF.—If provisional relief is provided under this subsection with respect to an imported article and neither a duty increase nor a duty imposition is provided under subsection (b) for such article, the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at the rate of duty that applied before the provisional relief was provided.

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsections (b) and (c) of section 322 may not, in the aggregate, be in effect for more than 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if—

''(1) import relief previously has been provided under this subtitle with respect to that article; or

''(2) the article is subject to import relief under—

''(A) subtitle A; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of

the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 331. FINDINGS AND ACTION ON GOODS FROM AUSTRALIA.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 [19 U.S.C. 1330(d)]), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Australia are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING AUSTRALIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall determine whether imports from Australia are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Australia.

''TITLE IV—PROCUREMENT

''SEC. 401. ELIGIBLE PRODUCTS.''

[Amended section 2518 of this title.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 7857, Dec. 20, 2004, 69 F.R. 77136, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Australia Free Trade Agreement Implementation Act (USAFTA Act) (Pub. L. 108–286, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 206 of the USAFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of and capability to produce goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under sections 321–328 of the USAFTA Act to review requests, including allegations of critical circumstances, and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of an Australian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination, and if critical circumstances are alleged, to determine whether there is clear evidence that imports from Australia have increased as the result of the reduction or elimination of a customs duty under the United States-Australia Free Trade Agreement, whether there is clear evidence that such imports are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and whether delay in taking action would cause damage to that industry that would be difficult to repair, and to provide provisional relief with respect to imports that are subject to an affirmative determination of critical circumstances that is necessary to remedy or prevent the serious damage.]

UNITED STATES-SINGAPORE FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–78, Sept. 3, 2003, 117 Stat. 948, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Singapore Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and the Republic of Singapore entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 [19 U.S.C. 3803(b)];

''(2) to strengthen and develop economic relations between the United States and Singapore for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Singapore Free Trade Agreement approved by Congress under section 101(a).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

''(1) the United States-Singapore Free Trade Agreement entered into on May 6, 2003, with the Government of Singapore and submitted to Congress on July 15, 2003; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 15, 2003.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Singapore has taken measures necessary to bring it into compliance with those provisions of the Agreement that take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Singapore providing for the entry into force, on or after January 1, 2004, of the Agreement for the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''(a) CONSULTATION AND LAYOVER REQUIREMENTS.—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155]; and

''(B) the United States International Trade Commission;

''(2) the President has submitted a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days beginning on the first day on which the requirements of paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

''(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of enactment of this Act [Sept. 3, 2003]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations—

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2004] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

''(2) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in section 103(b) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement [Jan. 1, 2004]. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. Such office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2003 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

''SEC. 106. ARBITRATION OF CERTAIN CLAIMS.

''(a) SUBMISSION OF CERTAIN CLAIMS.—The United States is authorized to resolve any claim against the United States covered by article 15.15.1(a)(i)(C) or article 15.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section C of chapter 15 of the Agreement.

''(b) CONTRACT CLAUSES.—All contracts executed by any agency of the United States on or after the date of entry into force of the Agreement [Jan. 1, 2004] shall contain a clause specifying the law that will apply to resolve any breach of contract claim.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTIONS.—

''(1) Sections 1 through 3 and this title take effect on the date of enactment of this Act [Sept. 3, 2003].

''(2) Section 205 takes effect on the date on which the textile and apparel provisions of the Agreement take effect pursuant to article 5.10 of the Agreement.

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such continuation of duty-free or excise treatment, or

''(3) such additional duties—

as the President determines to be necessary or appropriate to carry out or apply articles 2.2, 2.5, 2.6, and 2.12 and Annex 2B of the Agreement.

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Singapore regarding the staging of any duty treatment set forth in Annex 2B of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties—

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Singapore provided for by the Agreement.

''(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States set forth in Annex 2B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(1) the good is wholly obtained or produced entirely in the territory of Singapore, the United States, or both;

''(2) each nonoriginating material used in the production of the good—

''(A) undergoes an applicable change in tariff classification set out in Annex 3A of the Agreement as a result of production occurring entirely in the territory of Singapore, the United States, or both; or

''(B) if no change in tariff classification is required, the good otherwise satisfies the applicable requirements of such Annex; or

''(3) the good itself, as imported, is listed in Annex 3B of the Agreement and is imported into the territory of the United States from the territory of Singapore.

''(b) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided for in paragraphs (2) and (3), a good shall be considered to be an originating good if—

''(A) the value of all nonoriginating materials used in the production of the good that do not undergo the required change in tariff classification under Annex 3A of the Agreement does not exceed 10 percent of the adjusted value of the good;

''(B) if the good is subject to a regional value-content requirement, the value of such nonoriginating materials is taken into account in calculating the regional value-content of the good; and

''(C) the good satisfies all other applicable requirements of this section.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 of the HTS that is used in the production of a good provided for in chapter 4 of the HTS.

''(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 of the HTS that is used in the production of a good provided for in heading 2105 or in any of subheadings 1901.10, 1901.20, 1901.90, 2106.90, 2202.90, and 2309.90 of the HTS.

''(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11.00 through 2009.39, of the HTS, that is used in the production of a good provided for in any of subheadings 2009.11.00 through 2009.39 or in subheading 2106.90 or 2202.90 of the HTS.

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, 1512, 1514, and 1515 of the HTS.

''(E) A nonoriginating material provided for in heading 1701 of the HTS that is used in the production of a good provided for in any of headings 1701 through 1703 of the HTS.

''(F) A nonoriginating material provided for in chapter 17 of the HTS or heading 1805.00.00 of the HTS that is used in the production of a good provided for in subheading 1806.10 of the HTS.

''(G) A nonoriginating material provided for in any of headings 2203 through 2208 of the HTS that is used in the production of a good provided for in heading 2207 or 2208 of the HTS.

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a good provided for in any of chapters 50 through 63 of the HTS that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—

''(i) TREATMENT AS ORIGINATING GOOD.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Singapore or the United States.

''(ii) DEFINITION OF TEXTILE OR APPAREL GOOD.—For purposes of this subparagraph, the term 'textile or apparel good' means a product listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''(c) ACCUMULATION.—

''(1) ORIGINATING GOODS INCORPORATED IN GOODS OF OTHER COUNTRY.—Originating materials from the territory of either Singapore or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Singapore, the United States, or both, by 1 or more producers is an originating good if the good satisfies the requirements of subsection (a) and all other applicable requirements of this section.

''(d) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (a)(2), the regional value-content of a good referred to in Annex 3A of the Agreement shall be calculated, at the choice of the person claiming preferential tariff treatment for the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3), unless otherwise provided in Annex 3A of the Agreement.

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$\text{RVC} = \frac{\text{AV}-\text{VNM}}{\text{AV}} \times 100$$

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VNM' means the value of non-originating materials that are acquired and used by the producer in the production of the good.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VOM' means the value of originating materials that are acquired or self-produced and are used by the producer in the production of the good.

''(e) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For purposes of calculating the regional value-content of a good under subsection (d), and for purposes of applying the de minimis rules under subsection (b), the value of a material is—

''(A) in the case of a material imported by the producer of the good, the adjusted value of the material;

''(B) in the case of a material acquired in the territory in which the good is produced, except for a material to which subparagraph (C) applies, the adjusted value of the material; or

''(C) in the case of a material that is self-produced, or in a case in which the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, including a material obtained without charge, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIALS.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

''(B) NONORIGINATING MATERIALS.—The following expenses, if included in the value of a non-originating material calculated under paragraph (1), may be deducted from the value of the non-originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Singapore, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

''(iv) The cost of processing incurred in the territory of Singapore or the United States in the production of the nonoriginating material.

''(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Singapore or the United States.

''(f) ACCESSORIES, SPARE PARTS, OR TOOLS.—

''(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools shall—

''(A) be treated as originating goods if the good is an originating good; and

''(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement.

''(2) CONDITIONS.—Paragraph (1) shall apply only if—

''(A) the accessories, spare parts, or tools are not invoiced separately from the good;

''(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

''(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Singapore or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for particular fungible goods or materials shall continue to use that method for those fungible goods or materials throughout the fiscal year of that person.

''(h) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3A of the Agreement and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether—

''(1) the nonoriginating materials used in the production of a good undergo an applicable change in tariff classification set out in Annex 3A of the Agreement; and

''(2) the good satisfies a regional value-content requirement.

''(j) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

''(k) THIRD COUNTRY OPERATIONS.—A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of subsection (a) if, subsequent to that production, the good undergoes further production or any other operation outside the territories of Singapore and the United States, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of Singapore or the United States.

''(*l*) SPECIAL RULE FOR APPAREL GOODS LISTED IN CHAPTER 61 OR 62 OF THE HTS.—

''(1) IN GENERAL.—An apparel good listed in chapter 61 or 62 of the HTS shall be considered to be an originating good if it is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore, the United States, or both, from fabric or yarn, regardless of origin, designated in the manner described in paragraph (2) as fabric or yarn not available in commercial quantities in a timely manner in the United States.

''(2) DESIGNATION OF CERTAIN FABRIC AND YARN.—The designation referred to in paragraph (1) means a designation made in a notice published in the Federal Register on or before November 15, 2002, identifying apparel goods made from fabric or yarn eligible for entry into the United States under subheading 9819.11.24 or 9820.11.27 of the HTS. For purposes of this subsection, a reference in the notice to fabric or yarn formed in the United States is deemed to include fabric or yarn formed in Singapore.

''(m) APPLICATION AND INTERPRETATION.—In this section:

''(1) The basis for any tariff classification is the HTS.

''(2) Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Singapore or the United States).

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value of a good determined under articles 1 through 8, article 15, and the corresponding interpretative notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], except that such value may be adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

''(2) FUNGIBLE GOODS AND FUNGIBLE MATERIALS.—The terms 'fungible goods' and 'fungible materials' mean goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical.

''(3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the recognized consensus or substantial authoritative support in the territory of Singapore or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, and assets and liabilities, the disclosure of information, and the preparation of financial statements. The standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

''(4) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF SINGAPORE, THE UNITED STATES, OR BOTH.—The term 'goods wholly obtained or produced entirely in the territory of Singapore, the United States, or both' means—

''(A) mineral goods extracted in the territory of Singapore, the United States, or both;

''(B) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of Singapore, the United States, or both;

''(C) live animals born and raised in the territory of Singapore, the United States, or both;

''(D) goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Singapore, the United States, or both;

''(E) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Singapore or the United States and flying the flag of that country;

''(F) goods produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Singapore or the United States and flying the flag of that country;

''(G) goods taken by Singapore or the United States, or a person of Singapore or the United States, from the seabed or beneath the seabed outside territorial waters, if Singapore or the United States has rights to exploit such seabed;

''(H) goods taken from outer space, if the goods are obtained by Singapore or the United States or a person of Singapore or the United States and not processed in the territory of a country other than Singapore or the United States;

''(I) waste and scrap derived from—

''(i) production in the territory of Singapore, the United States, or both; or

''(ii) used goods collected in the territory of Singapore, the United States, or both, if such goods are fit only for the recovery of raw materials;

''(J) recovered goods derived in the territory of Singapore, the United States, or both, from used goods; or

''(K) goods produced in the territory of Singapore, the United States, or both, exclusively—

''(i) from goods referred to in any of subparagraphs (A) through (I); or

''(ii) from the derivatives of goods referred to in clause (i).

''(5) HARMONIZED SYSTEM.—The term 'Harmonized System' means the Harmonized Commodity Description and Coding System.

''(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

''(7) MATERIAL.—The term 'material' means a good that is used in the production of another good.

''(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means a material, such as a part or ingredient, produced by a producer of a good and used by the producer in the production of another good.

''(9) NONORIGINATING MATERIAL.—The term 'nonoriginating material' means a material that does not qualify as an originating good under the rules set out in this section.

''(10) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs

duty rate that is applicable to an originating good pursuant to chapter 2 of the Agreement.

''(11) PRODUCER.—The term 'producer' means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles, or disassembles a good.

''(12) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(13) RECOVERED GOODS.—

''(A) IN GENERAL.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(i) the complete disassembly of used goods into individual parts; and

''(ii) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the processes described in subparagraph (B), in order for such parts to be assembled with other parts, including other parts that have undergone the processes described in this paragraph, in the production of a remanufactured good described in Annex 3C of the Agreement.

''(B) PROCESSES.—The processes referred to in subparagraph (A)(ii) are welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding.

''(14) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Singapore or the United States, that is listed in Annex 3C of the Agreement, and—

''(A) is entirely or partially comprised of recovered goods;

''(B) has the same life expectancy and meets the same performance standards as a new good; and

''(C) enjoys the same factory warranty as such a new good.

''(15) TERRITORY.—The term 'territory' has the meaning given that term in Annex 1A of the Agreement.

''(16) USED.—The term 'used' means used or consumed in the production of goods.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set out in Annexes 3A, 3B, and 3C of the Agreement; and

''(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than—

''(i) the provisions of Annex 3B of the Agreement; and

''(ii) provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) that are necessary to implement an agreement with Singapore pursuant to article 3.18.4(c) of the Agreement; and

''(ii) before the 1st anniversary of the date of enactment of this Act [Sept. 3, 2003], modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 3A of the Agreement.

''SEC. 203. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 204. DISCLOSURE OF INCORRECT INFORMATION.

[Amended section 1592 of this title.]

''SEC. 205. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

''(a) DENIAL OF PERMISSION TO CONDUCT SITE VISITS.—

''(1) IN GENERAL.—Subject to paragraph (2), if the Secretary of the Treasury proposes to conduct a site visit at an enterprise registered under article 5.3 of the Agreement, and responsible officials of the enterprise do not consent to the proposed visit, the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by that enterprise.

''(2) TERMINATION OF EXCLUSION.—An exclusion of textile and apparel goods produced or exported by an enterprise under paragraph (1) shall terminate when the President determines that the enterprise's production of, and capability to produce, the goods are consistent with statements by the enterprise that textile or apparel goods the enterprise produces or has produced are originating goods or products of Singapore, as the case may be.

''(b) KNOWING OR WILLFUL CIRCUMVENTION.—

''(1) IN GENERAL.—If the President finds that an enterprise of Singapore has knowingly or willfully engaged in circumvention, the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by the enterprise. An exclusion under this paragraph may be imposed on the date beginning on the date a finding of knowing or willful circumvention is made and shall be in effect for a period not longer than the applicable period described in paragraph (2).

''(2) TIME PERIODS.—

''(A) FIRST FINDING.—With respect to a first finding under paragraph (1), the applicable period is 6 months.

''(B) SECOND FINDING.—With respect to a second finding under paragraph (1), the applicable period is 2 years.

''(C) THIRD AND SUBSEQUENT FINDING.—With respect to a third or subsequent finding under paragraph (1), the applicable period is 2 years. If, at the time of a third or subsequent finding, an exclusion is in effect as a result of a previous finding, the 2-year period applicable to the third or subsequent finding shall begin on the day after the day on which the previous exclusion terminates.

''(c) CERTAIN OTHER INSTANCES OF CIRCUMVENTION.—If the President consults with Singapore pursuant to article 5.8 of the Agreement, the consultations fail to result in a mutually satisfactory solution to the matters at issue, and the President presents to Singapore clear evidence of circumvention under the Agreement, the President may—

''(1) deny preferential tariff treatment to the goods involved in the circumvention; and

''(2) deny preferential tariff treatment, for a period not to exceed 4 years from the date on which consultations pursuant to article 5.8 of the Agreement conclude, to—

''(A) textile and apparel goods produced by the enterprise found to have engaged in the circumvention, including any successor of such enterprise; and

''(B) textile and apparel goods produced by any other entity owned or operated by a principal of the enterprise, if the principal also is a principal of the other entity.

''(d) DEFINITIONS.—In this section:

''(1) GENERAL DEFINITIONS.—The terms 'circumvention', 'preferential tariff treatment', 'principal', and 'textile and apparel goods' have the meanings given such terms in chapter 5 of the Agreement.

''(2) ENTERPRISE.—The term 'enterprise' has the meaning given that term in article 1.2.3 of the Agreement.

''SEC. 206. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 202, and section 203;

''(2) amendments made by the sections referred to in paragraph (1); and

''(3) proclamations issued under section 202(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(2) SINGAPOREAN ARTICLE.—The term 'Singaporean article' means an article that qualifies as an originating good under section 202(a) of this Act.

''(3) SINGAPOREAN TEXTILE OR APPAREL ARTICLE.—The term 'Singaporean textile or apparel article' means an article—

''(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) that is a Singaporean article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—

''(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

''(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Singaporean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Singaporean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (d).

''(4) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Singaporean article if, after the date that the Agreement enters into force [Jan. 1, 2004], import relief has been provided with respect to that Singaporean article under—

''(1) this subtitle;

''(2) subtitle B;

''(3) chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.];

''(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

''(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''(C) In the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 7.28 of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), the import relief that the President is authorized to provide under this section may not exceed 2 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

''(i) the import relief continues to be necessary to prevent or remedy serious injury and to facilitate adjustment; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—

''(i) Upon a petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(C) PERIOD OF IMPORT RELIEF.—The effective period of any import relief imposed under this section, including any extensions thereof, may not, in the aggregate, exceed 4 years.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief, after the entry into force of the Agreement [Jan. 1, 2004], under—

''(1) this subtitle;

''(2) subtitle B;

''(3) chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.];

''(4) article 6 of the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); or

''(5) article 5 of the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—No import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTION.—Import relief may be provided under this subtitle in the case of a Singaporean article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Singapore has consented to such relief.

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—Pursuant to a request made by an interested party, the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Singaporean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article constitute a substantial cause of serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(3) SUBSTANTIAL CAUSE.—For purposes of this subsection, the term 'substantial cause' means a cause that is important and not less than any other cause.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is—

''(A) the suspension of any further reduction provided for under Annex 2B of the Agreement in the duty imposed on the article; or

''(B) an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—Subject to subsection (b), the import relief that the President is authorized to provide under section 322 may not exceed 2 years.

''(b) EXTENSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle if the President determines that—

''(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment; and

''(B) there is evidence that the industry is making a positive adjustment to import competition.

''(2) LIMITATION.—The effective period of any action under this subtitle, including any extensions thereof, may not, in the aggregate, exceed 4 years.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if import relief previously has been provided under this subtitle with respect to that article.

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to an article after the date that is 10 years after the date on which the provisions of the Agreement relating to trade in textile and apparel goods take effect pursuant to article 5.10 of the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent business confidential information is provided, a nonconfidential version of the information shall also be provided, in which the business confidential information is summarized or, if necessary, deleted.

''SUBTITLE C—CASES UNDER TITLE II OF THE TRADE ACT OF 1974

''SEC. 331. FINDINGS AND ACTION ON GOODS FROM SINGAPORE.

''(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930 [19 U.S.C. 1330(d)]), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Singapore are a substantial cause of serious injury or threat thereof.

''(b) PRESIDENTIAL DETERMINATION REGARDING SINGAPOREAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.], the President shall determine whether imports from Singapore are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Singapore.

''TITLE IV—TEMPORARY ENTRY OF BUSINESS PERSONS

''SEC. 401. NONIMMIGRANT TRADERS AND INVESTORS.

''Upon a basis of reciprocity secured by the Agreement, an alien who is a national of Singapore (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of such alien, if accompanying or following to join the alien) may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in clause (i) or (ii) of such section 101(a)(15)(E). For purposes of this section, the term 'national' has the meaning given such term in Annex 1A of the Agreement.

''SEC. 402. NONIMMIGRANT PROFESSIONALS.''

[Amended section 1184 of Title 8, Aliens and Nationality.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 7747, Dec. 30, 2003, 68 F.R. 75794, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Singapore Free Trade Agreement Implementation Act (USSFTA Act) (Pub. L. 108–78, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (5) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of

the President under section 205 of the USSFTA Act to exclude textile and apparel goods from the customs territory of the United States, to determine whether an enterprise's production of, and capability to produce, textile and apparel goods are consistent with statements by the enterprise, to find that an enterprise has knowingly or willfully engaged in circumvention, and to deny preferential tariff treatment to textile and apparel goods; and in par. (6) that the CITA is authorized to exercise the authority of the President under subtitle B of title III of the USSFTA Act to review requests and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether imports of a Singaporean textile or apparel article constitute a substantial cause of serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

UNITED STATES-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACT

Pub. L. 108–77, Sept. 3, 2003, 117 Stat. 909, as amended by Pub. L. 108–429, title II, §2004(d)(7), Dec. 3, 2004, 118 Stat. 2593, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'United States-Chile Free Trade Agreement Implementation Act'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to approve and implement the Free Trade Agreement between the United States and the Republic of Chile entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 [19 U.S.C. 3803(b)];

''(2) to strengthen and develop economic relations between the United States and Chile for their mutual benefit;

''(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

''(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) AGREEMENT.—The term 'Agreement' means the United States-Chile Free Trade Agreement approved by the Congress under section 101(a)(1).

''(2) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States.

''(3) TEXTILE OR APPAREL GOOD.—The term 'textile or apparel good' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

''SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

''(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

''(1) the United States-Chile Free Trade Agreement entered into on June 6, 2003, with the Government of Chile and submitted to the Congress on July 15, 2003; and

''(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 15, 2003.

''(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Chile has taken measures necessary to bring it into compliance with the provisions of the Agreement that take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Chile providing for the entry into force, on or after January 1, 2004, of the Agreement for the United States.

''SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

''(a) RELATIONSHIP TO UNITED STATES LAW.—

''(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

''(2) CONSTRUCTION.—Nothing in this Act shall be construed—

''(A) to amend or modify any law of the United States, or

''(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

''(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

''(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

''(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term 'State law' includes—

''(A) any law of a political subdivision of a State; and

''(B) any State law regulating or taxing the business of insurance.

''(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

''(1) shall have any cause of action or defense under the Agreement or by virtue of Congressional approval thereof; or

''(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

''SEC. 103. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

''(a) CONSULTATION AND LAYOVER REQUIREMENTS.—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

''(1) the President has obtained advice regarding the proposed action from—

''(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

''(B) the United States International Trade Commission;

''(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

''(A) the action proposed to be proclaimed and the reasons therefor; and

''(B) the advice obtained under paragraph (1);

''(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

''(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

''(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under

the authority of this Act that is not subject to the consultation and layover provisions under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

''SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

''(a) IMPLEMENTING ACTIONS.—

''(1) PROCLAMATION AUTHORITY.—After the date of enactment of this Act [Sept. 3, 2003]—

''(A) the President may proclaim such actions, and

''(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force [Jan. 1, 2004] is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

''(2) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in section 103(b) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

''(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action referred to in section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement [Jan. 1, 2004]. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

''SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

''(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 22 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2003 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 22 of the Agreement.

''SEC. 106. ARBITRATION OF CLAIMS.

''(a) SUBMISSION OF CERTAIN CLAIMS.—The United States is authorized to resolve any claim against the United States covered by article 10.15(1)(a)(i)(C) or 10.15(1)(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

''(b) CONTRACT CLAUSES.—All contracts executed by any agency of the United States on or after the date of entry into force of the Agreement [Jan. 1, 2004] shall contain a clause specifying the law that will apply to resolve any breach of contract claim.

''SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

''(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act [Sept. 3, 2003].

''(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

''TITLE II—CUSTOMS PROVISIONS

''SEC. 201. TARIFF MODIFICATIONS.

''(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

''(1) PROCLAMATION AUTHORITY.—The President may proclaim—

''(A) such modifications or continuation of any duty,

''(B) such continuation of duty-free or excise treatment, or

''(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.7, 3.9, article 3.20 (8), (9), (10), and (11), and Annex 3.3 of the Agreement.

''(2) EFFECT ON CHILEAN GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of Chile as a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] on the date of entry into force of the Agreement [Jan. 1, 2004].

''(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(1) such modifications or continuation of any duty,

''(2) such modifications as the United States may agree to with Chile regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

''(3) such continuation of duty-free or excise treatment, or

''(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Chile provided for by the Agreement.

''(c) ADDITIONAL TARIFFS ON AGRICULTURAL SAFEGUARD GOODS.—

''(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b), and subject to paragraphs (3) through (5), the Secretary of the Treasury shall assess a duty, in the amount prescribed under paragraph (2), on an agricultural safeguard good if the Secretary of the Treasury determines that the unit import price of the good when it enters the United States, determined on an F.O.B. basis, is less than the trigger price indicated for that good in Annex 3.18 of the Agreement or any amendment thereto.

''(2) CALCULATION OF ADDITIONAL DUTY.—The amount of the additional duty assessed under this subsection shall be determined as follows:

''(A) If the difference between the unit import price and the trigger price is less than, or equal to, 10 percent of the trigger price, no additional duty shall be imposed.

''(B) If the difference between the unit import price and the trigger price is greater than 10 percent, but less than or equal to 40 percent, of the trigger price, the additional duty shall be equal to 30 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(C) If the difference between the unit import price and the trigger price is greater than 40 percent, but less than or equal to 60 percent, of the trigger price, the additional duty shall be equal to 50 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(D) If the difference between the unit import price and the trigger price is greater than 60 percent, but less than or equal to 75 percent, of the trigger price, the additional duty shall be equal to 70 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(E) If the difference between the unit import price and the trigger price is greater than 75 percent of the trigger price, the additional duty shall be equal to 100 percent of the difference between the preferential tariff rate and the column 1 general rate of duty imposed under the HTS on like articles at the time the additional duty is imposed.

''(3) EXCEPTIONS.—No additional duty under this subsection shall be assessed on an agricultural safeguard good if, at the time of entry, the good is subject to import relief under—

''(A) subtitle A of title III of this Act; or

''(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

''(4) TERMINATION.—This subsection shall cease to apply on the date that is 12 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(5) TARIFF-RATE QUOTAS.—If an agricultural safeguard good is subject to a tariff-rate quota, and the in-quota duty rate for the good proclaimed pursuant to subsection (a) or (b) is zero, any additional duty assessed under this subsection shall be applied only to over-quota imports of the good.

''(6) NOTICE.—Not later than 60 days after the Secretary of the Treasury first assesses additional duties on an agricultural safeguard good under this subsection, the Secretary shall notify the Government of Chile in writing of such action and shall provide to the Government of Chile data supporting the assessment of additional duties.

''(7) MODIFICATION OF TRIGGER PRICES.—Not later than 60 calendar days before agreeing with the Government of Chile pursuant to article 3.18(2)(b) of the Agreement on a modification to a trigger price for a good listed in Annex 3.18 of the Agreement, the President shall notify the Committees on Ways and Means and Agriculture of the House of Representatives and the Committees on Finance and Agriculture of the Senate of the proposed modification and the reasons therefor.

''(8) DEFINITIONS.—In this subsection:

''(A) AGRICULTURAL SAFEGUARD GOOD.—The term 'agricultural safeguard good' means a good—

''(i) that qualifies as an originating good under section 202;

''(ii) that is included in the United States Agricultural Safeguard Product List set forth in Annex 3.18 of the Agreement; and

''(iii) for which a claim for preferential tariff treatment under the Agreement has been made.

''(B) F.O.B.—The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

''(C) UNIT IMPORT PRICE.—The term 'unit import price' means the price expressed in dollars per kilogram.

''(d) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

''SEC. 202. RULES OF ORIGIN.

''(a) ORIGINATING GOODS.—

''(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

''(A) the good is wholly obtained or produced entirely in the territory of Chile, the United States, or both;

''(B) the good—

''(i) is produced entirely in the territory of Chile, the United States, or both, and

''(I) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement, or

''(II) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

''(ii) satisfies all other applicable requirements of this section; or

''(C) the good is produced entirely in the territory of Chile, the United States, or both, exclusively from materials described in subparagraph (A) or (B).

''(2) SIMPLE COMBINATION OR MERE DILUTION.—A good shall not be considered to be an originating good and a material shall not be considered to be an originating material by virtue of having undergone—

''(A) simple combining or packaging operations; or

''(B) mere dilution with water or another substance that does not materially alter the characteristics of the good or material.

''(b) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

''(A) the value of all nonoriginating materials that are used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

''(B) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement; and

''(C) the good meets all other applicable requirements of this section.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

''(A) A nonoriginating material provided for in chapter 4 of the HTS, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90 of the HTS, that is used in the production of a good provided for in chapter 4 of the HTS.

''(B) A nonoriginating material provided for in chapter 4 of the HTS, or nonoriginating dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 of the HTS, that are used in the production of the following goods:

''(i) Infant preparations containing over 10 percent in weight of milk solids provided for in subheading 1901.10 of the HTS.

''(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20 of the HTS.

''(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90 of the HTS.

''(iv) Goods provided for in heading 2105 of the HTS.

''(v) Beverages containing milk provided for in subheading 2202.90 of the HTS.

''(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90 of the HTS.

''(C) A nonoriginating material provided for in heading 0805 of the HTS, or any of subheadings 2009.11.00 through 2009.39 of the HTS, that is used in

the production of a good provided for in any of subheadings 2009.11.00 through 2009.39 of the HTS, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90 of the HTS.

''(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, 1512, 1514, and 1515 of the HTS.

''(E) A nonoriginating material provided for in heading 1701 of the HTS that is used in the production of a good provided for in any of headings 1701 through 1703 of the HTS.

''(F) A nonoriginating material provided for in chapter 17 of the HTS or in heading 1805.00.00 of the HTS that is used in the production of a good provided for in subheading 1806.10 of the HTS.

''(G) A nonoriginating material provided for in any of headings 2203 through 2208 of the HTS that is used in the production of a good provided for in heading 2207 or 2208 of the HTS.

''(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

''(3) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a good provided for in any of chapters 50 through 63 of the HTS that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

''(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Chile or the United States.

''(c) ACCUMULATION.—

''(1) ORIGINATING GOODS INCORPORATED IN GOODS OF OTHER COUNTRY.—Originating goods or materials of Chile or the United States that are incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

''(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Chile, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (a) and all other applicable requirements of this section.

''(d) REGIONAL VALUE-CONTENT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1)(B), the regional value-content of a good referred to in Annex 4.1 of the Agreement shall be calculated, at the choice of the person claiming preferential tariff treatment for the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3), unless otherwise provided in Annex 4.1 of the Agreement.

''(2) BUILD-DOWN METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$\text{RVC} = \frac{\text{AV}-\text{VNM}}{\text{AV}} \times 100$$

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VNM' means the value of nonoriginating materials used by the producer in the production of the good.

''(3) BUILD-UP METHOD.—

''(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

''(B) DEFINITIONS.—For purposes of subparagraph (A):

''(i) The term 'RVC' means the regional value-content, expressed as a percentage.

''(ii) The term 'AV' means the adjusted value.

''(iii) The term 'VOM' means the value of originating materials used by the producer in the production of the good.

''(e) VALUE OF MATERIALS.—

''(1) IN GENERAL.—For purposes of calculating the regional value-content of a good under subsection (d), and for purposes of applying the de minimis rules under subsection (b), the value of a material is—

''(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material with respect to that importation;

''(B) in the case of a material acquired in the territory in which the good is produced, except for a material to which subparagraph (C) applies, the producer's price actually paid or payable for the material;

''(C) in the case of a material provided to the producer without charge, or at a price reflecting a discount or similar reduction, the sum of—

''(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses; and

''(ii) an amount for profit; or

''(D) in the case of a material that is self-produced, the sum of—

''(i) all expenses incurred in the production of the material, including general expenses; and

''(ii) an amount for profit.

''(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

''(A) ORIGINATING MATERIALS.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Chile, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

''(B) NONORIGINATING MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

''(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

''(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Chile, the United States, or both, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

''(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products.

''(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of Chile or the United States.

''(f) ACCESSORIES, SPARE PARTS, OR TOOLS.—Accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall be regarded as a material used in the production of the good, if—

''(1) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and

''(2) the quantities and value of the accessories, spare parts, or tools are customary for the good.

''(g) FUNGIBLE GOODS AND MATERIALS.—

''(1) IN GENERAL.—

''(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method.

''(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term 'inventory management method' means—

''(i) averaging;

''(ii) 'last-in, first-out';

''(iii) 'first-in, first-out'; or

''(iv) any other method—

''(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Chile or the United States); or

''(II) otherwise accepted by that country.

''(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for particular fungible goods or materials shall continue to use that method for those goods or materials throughout the fiscal year of that person.

''(h) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

''(i) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether—

''(1) the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 4.1 of the Agreement; and

''(2) the good satisfies a regional value-content requirement.

''(j) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced.

''(k) TRANSIT AND TRANSSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (a) shall not be considered to be an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Chile or the United States, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of Chile or the United States.

''(*l*) TEXTILE AND APPAREL GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, textile and apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the Harmonized System shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

''(m) APPLICATION AND INTERPRETATION.—In this section:

''(1) The basis for any tariff classification is the HTS.

''(2) Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Chile or the United States).

''(n) DEFINITIONS.—In this section:

''(1) ADJUSTED VALUE.—The term 'adjusted value' means the value determined in accordance with articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act [19 U.S.C. 3511(d)(8)], except that such value may be adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

''(2) FUNGIBLE GOODS OR FUNGIBLE MATERIALS.—The terms 'fungible goods' and 'fungible materials' mean goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical.

''(3) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term 'generally accepted accounting principles' means the principles, rules, and procedures, including both broad and specific guidelines, that define the accounting practices accepted in the territory of Chile or the United States, as the case may be.

''(4) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF CHILE, THE UNITED STATES, OR BOTH.—The term 'goods wholly obtained or produced entirely in the territory of Chile, the United States, or both' means—

''(A) mineral goods extracted in the territory of Chile, the United States, or both;

''(B) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of Chile, the United States, or both;

''(C) live animals born and raised in the territory of Chile, the United States, or both;

''(D) goods obtained from hunting, trapping, or fishing in the territory of Chile, the United States, or both;

''(E) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Chile or the United States and flying the flag of that country;

''(F) goods produced on board factory ships from the goods referred to in subparagraph (E), if such factory ships are registered or recorded with Chile or the United States and fly the flag of that country;

''(G) goods taken by Chile or the United States or a person of Chile or the United States from the seabed or beneath the seabed outside territorial waters, if Chile or the United States has rights to exploit such seabed;

''(H) goods taken from outer space, if the goods are obtained by Chile or the United States or a person of Chile or the United States and not processed in the territory of a country other than Chile or the United States;

''(I) waste and scrap derived from—

''(i) production in the territory of Chile, the United States, or both; or

''(ii) used goods collected in the territory of Chile, the United States, or both, if such goods are fit only for the recovery of raw materials;

''(J) recovered goods derived in the territory of Chile or the United States from used goods, and used in the territory of that country in the production of remanufactured goods; and

''(K) goods produced in the territory of Chile, the United States, or both, exclusively—

''(i) from goods referred to in any of subparagraphs (A) through (I), or

''(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

''(5) HARMONIZED SYSTEM.—The term 'Harmonized System' means the Harmonized Commodity Description and Coding System.

''(6) INDIRECT MATERIAL.—The term 'indirect material' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

''(A) fuel and energy;

''(B) tools, dies, and molds;

''(C) spare parts and materials used in the maintenance of equipment or buildings;

''(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

''(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

''(F) equipment, devices, and supplies used for testing or inspecting the good;

''(G) catalysts and solvents; and

''(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

''(7) MATERIAL.—The term 'material' means a good that is used in the production of another good, including a part, ingredient, or indirect material.

''(8) MATERIAL THAT IS SELF-PRODUCED.—The term 'material that is self-produced' means a material that is an originating good produced by a producer of a good and used in the production of that good.

''(9) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms 'nonoriginating good' and 'nonoriginating material' mean a good or material, as the case may be, that does not qualify as an originating good under this section.

''(10) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term 'packing materials and containers for shipment' means the goods used to protect a good during its transportation, and does not include the packaging materials and containers in which a good is packaged for retail sale.

''(11) PREFERENTIAL TARIFF TREATMENT.—The term 'preferential tariff treatment' means the customs duty rate that is applicable to an originating good pursuant to chapter 3 of the Agreement.

''(12) PRODUCER.—The term 'producer' means a person who engages in the production of a good in the territory of Chile or the United States.

''(13) PRODUCTION.—The term 'production' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

''(14) RECOVERED GOODS.—

''(A) IN GENERAL.—The term 'recovered goods' means materials in the form of individual parts that are the result of—

''(i) the complete disassembly of used goods into individual parts; and

''(ii) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the processes described in subparagraph (B), in order for such parts to be assembled with other parts, including other parts that have undergone the processes described in this paragraph, in the production of a remanufactured good.

''(B) PROCESSES.—The processes referred to in subparagraph (A)(ii) are welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding.

''(15) REMANUFACTURED GOOD.—The term 'remanufactured good' means an industrial good assembled in the territory of Chile or the United States, that is listed in Annex 4.18 of the Agreement, and—

''(A) is entirely or partially comprised of recovered goods;

''(B) has the same life expectancy and meets the same performance standards as a new good; and

''(C) enjoys the same factory warranty as such a new good.

''(*o*) PRESIDENTIAL PROCLAMATION AUTHORITY.—

''(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

''(A) the provisions set out in Annex 4.1 of the Agreement; and

''(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—Subject to the consultation and layover provisions of section 103(a), the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4.1 of the Agreement.

''(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 103(a), the President may proclaim—

''(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) that are necessary to implement an agreement with Chile pursuant to article 3.20(5) of the Agreement; and

''(ii) before the 1st anniversary of the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4.1 of the Agreement.

''SEC. 203. DRAWBACK.

''(a) DEFINITION OF A GOOD SUBJECT TO CHILE FTA DRAWBACK.—For purposes of this Act and the amendments made by subsection (b), the term 'good subject to Chile FTA drawback' means any imported good other than the following:

''(1) A good entered under bond for transportation and exportation to Chile.

''(2)(A) A good exported to Chile in the same condition as when imported into the United States.

''(B) For purposes of subparagraph (A)—

''(i) processes such as testing, cleaning, repacking, inspecting, sorting, or marking a good, or preserving it in its same condition, shall not be considered to change the condition of the good; and

''(ii) if a good described in subparagraph (A) is commingled with fungible goods and exported in the same condition, the origin of the good for the purposes of subsection (j)(1) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313(j)(1)) may be determined on the basis of the inventory methods provided for in the regulations implementing this title.

''(3) A good—

''(A) that is—

''(i) deemed to be exported from the United States;

''(ii) used as a material in the production of another good that is deemed to be exported to Chile; or

''(iii) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is deemed to be exported to Chile; and

''(B) that is delivered—

''(i) to a duty-free shop;

''(ii) for ship's stores or supplies for a ship or aircraft; or

''(iii) for use in a project undertaken jointly by the United States and Chile and destined to become the property of the United States.

''(4) A good exported to Chile for which a refund of customs duties is granted by reason of—

''(A) the failure of the good to conform to sample or specification; or

''(B) the shipment of the good without the consent of the consignee.

''(5) A good that qualifies under the rules of origin set out in section 202 that is—

''(A) exported to Chile;

''(B) used as a material in the production of another good that is exported to Chile; or

''(C) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is exported to Chile.

''(b) CONSEQUENTIAL AMENDMENTS.—

''(1) BONDED MANUFACTURING WAREHOUSES.—[Amended section 1311 of this title.]

''(2) BONDED SMELTING AND REFINING WAREHOUSES.—[Amended section 1312 of this title.]

''(3) DRAWBACK.—[Amended section 1313 of this title.]

''(4) MANIPULATION IN WAREHOUSE.—[Amended section 1562 of this title.]

''(5) FOREIGN TRADE ZONES.—[Amended section 81c of this title.]

''(c) INAPPLICABILITY TO COUNTERVAILING AND ANTIDUMPING DUTIES.—Nothing in this section or the amendments made by this section shall be considered to authorize the refund, waiver, or reduction of countervailing duties or antidumping duties imposed on an imported good.

''SEC. 204. CUSTOMS USER FEES.

[Amended section 58c of this title.]

''SEC. 205. DISCLOSURE OF INCORRECT INFORMATION; DENIAL OF PREFERENTIAL TARIFF TREATMENT; FALSE CERTIFICATES OF ORIGIN.

''(a) DISCLOSURE OF INCORRECT INFORMATION.—[Amended section 1592 of this title.]

''(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—[Amended section 1514 of this title.]

''SEC. 206. RELIQUIDATION OF ENTRIES.

[Amended section 1520 of this title.]

''SEC. 207. RECORDKEEPING REQUIREMENTS.

[Amended section 1508 of this title.]

''SEC. 208. ENFORCEMENT OF TEXTILE AND APPAREL RULES OF ORIGIN.

''(a) ACTION DURING VERIFICATION.—If the Secretary of the Treasury requests the Government of Chile to conduct a verification pursuant to article 3.21 of the Agreement for purposes of determining that—

''(1) an exporter or producer in Chile is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, or

''(2) claims that textile or apparel goods exported or produced by such exporter or producer—

''(A) qualify as originating goods under section 202 of this Act, or

''(B) are goods of Chile,

are accurate,

the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

''(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a) includes—

''(1) suspension of liquidation of entries of textile and apparel goods exported or produced by the person that is the subject of the verification, in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

''(2) publication of the name of the person that is the subject of the verification.

''(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a) is insufficient to make a determination under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a) or until such earlier date as the President may direct.

''(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

''(1) publication of the identity of the person that is the subject of the verification;

''(2) denial of preferential tariff treatment under the Agreement to any textile or apparel goods exported or produced by the person that is the subject of the verification; and

''(3) denial of entry into the United States of any textile or apparel goods exported or produced by the person that is the subject of the verification.

''SEC. 209. CONFORMING AMENDMENTS.

[Amended section 1508 of this title.]

''SEC. 210. REGULATIONS.

''The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

''(1) subsections (a) through (n) of section 202, and sections 203 and 204;

''(2) amendments made by the sections referred to in paragraph (1); and

''(3) proclamations issued under section 202(*o*).

''TITLE III—RELIEF FROM IMPORTS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(2) CHILEAN ARTICLE.—The term 'Chilean article' means an article that qualifies as an originating good under section 202(a) of this Act.

''(3) CHILEAN TEXTILE OR APPAREL ARTICLE.—The term 'Chilean textile or apparel article' means an article—

''(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

''(B) that is a Chilean article.

''SUBTITLE A—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

''SEC. 311. COMMENCING OF ACTION FOR RELIEF.

''(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

''(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Chilean article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Chilean article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

''(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

''(1) Paragraphs (1)(B) and (3) of subsection (b).

''(2) Subsection (c).

''(3) Subsection (i).

''(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Chilean article if, after the date that the Agreement enters into force [Jan. 1, 2004], import relief has been provided with respect to that Chilean article under this subtitle, or if, at the time the petition is filed, the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''SEC. 312. COMMISSION ACTION ON PETITION.

''(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

''(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

''(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

''(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

''(1) the determination made under subsection (a) and an explanation of the basis for the determination;

''(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

''(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

''(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

''SEC. 313. PROVISION OF RELIEF.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

''(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

''(c) NATURE OF RELIEF.—

''(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

''(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

''(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

''(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2(2) of the Agreement) of such relief at regular intervals during the period of its application.

''(d) PERIOD OF RELIEF.—

''(1) IN GENERAL.—Subject to paragraph (2), the import relief that the President is authorized to provide under this section, including any extensions thereof, may not, in the aggregate, exceed 3 years.

''(2) EXTENSION.—

''(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

''(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment; and

''(ii) there is evidence that the industry is making a positive adjustment to import competition.

''(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

''(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

''(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

''(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

''(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States in Annex 3.3 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the provision of relief under subsection (a); and

''(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

''(A) the applicable rate of duty for that article set out in the Schedule of the United States in Annex 3.3 of the Agreement; or

''(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule in Annex 3.3 of the Agreement for the elimination of the tariff.

''(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

''SEC. 314. TERMINATION OF RELIEF AUTHORITY.

''(a) GENERAL RULE.—No import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is 12 years, no relief under this subtitle may be provided for that article after the date that is 12 years after the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 315. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act [19 U.S.C. 2251 et seq.].

''SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

[Amended section 2252 of this title.]

''SUBTITLE B—TEXTILE AND APPAREL SAFEGUARD MEASURES

''SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

''(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

''(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include the request and the dates by which comments and rebuttals must be received.

''SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

''(a) DETERMINATION.—

''(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a Chilean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

''(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

''(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

''(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

''(b) PROVISION OF RELIEF.—

''(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

''(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

''(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

''(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force [Jan. 1, 2004].

''SEC. 323. PERIOD OF RELIEF.

''(a) IN GENERAL.—The import relief that the President is authorized to provide under section 322, including any extensions thereof, may not, in the aggregate, exceed 3 years.

''(b) EXTENSION.—If the initial period for any import relief provided under this section is less than 3 years, the President may extend the effective period of any import relief provided under this section, subject to the limitation set forth in subsection (a), if the President determines that—

''(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment; and

''(2) there is evidence that the industry is making a positive adjustment to import competition.

''SEC. 324. ARTICLES EXEMPT FROM RELIEF.

''The President may not provide import relief under this subtitle with respect to any article if import relief previously has been provided under this subtitle with respect to that article.

''SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

''When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be duty-free.

''SEC. 326. TERMINATION OF RELIEF AUTHORITY.

''No import relief may be provided under this subtitle with respect to any article after the date that is 8 years after the date on which duties on the article are eliminated pursuant to the Agreement.

''SEC. 327. COMPENSATION AUTHORITY.

''For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of that Act [19 U.S.C. 2251 et seq.].

''SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.

''The President may not release information which the President considers to be confidential business in-

formation unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent business confidential information is provided, a nonconfidential version of the information shall also be provided, in which the business confidential information is summarized or, if necessary, deleted.

''TITLE IV—TEMPORARY ENTRY OF BUSINESS PERSONS

''SEC. 401. NONIMMIGRANT TRADERS AND INVESTORS.

''Upon a basis of reciprocity secured by the Agreement, an alien who is a national of Chile (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of such alien, if accompanying or following to join the alien) may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in clause (i) or (ii) of such section 101(a)(15)(E). For purposes of this section, the term 'national' has the meaning given such term in article 14.9 of the Agreement.

''SEC. 402. NONIMMIGRANT PROFESSIONALS; LABOR ATTESTATIONS.

''(a) NONIMMIGRANT PROFESSIONALS.—

''(1) DEFINITIONS.—[Amended section 1101 of Title 8, Aliens and Nationality.]

''(2) ADMISSION OF NONIMMIGRANTS.—[Amended section 1184 of Title 8.]

''(b) LABOR ATTESTATIONS.—[Amended section 1182 of Title 8.]

''(c) SPECIAL RULE FOR COMPUTATION OF PREVAILING WAGE.—[Amended section 1182 of Title 8.]

''(d) FEE.—

''(1) IN GENERAL.—[Amended section 1184 of Title 8.]

''(2) USE OF FEE.—[Amended section 1356 of Title 8.]

''SEC. 403. LABOR DISPUTES.

[Amended section 1184 of Title 8.]

''SEC. 404. CONFORMING AMENDMENTS.''

[Amended section 1184 of Title 8.]

[The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.]

[Proc. No. 7746, Dec. 30, 2003, 68 F.R. 75790, provided in par. (3) that the Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the United States-Chile Free Trade Agreement Implementation Act (USCFTA Act) (Pub. L. 108–77, set out above) to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section; in par. (4) that the Committee for the Implementation of Textile Agreements (CITA) is authorized to exercise the authority of the President under section 208 of the USCFTA Act with respect to verifications conducted in a manner consistent with article 3.21 of the United States-Chile Free Trade Agreement; and in par. (5) that the CITA is authorized to exercise the authority of the President under subtitle B of title III of the USCFTA Act to review requests and to determine whether to commence consideration of such requests, to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment, to determine whether a Chilean textile or apparel article is being imported into the United States in such increased quantities and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and to provide relief from imports of an article that is the subject of such a determination.]

§ 3806. Treatment of certain trade agreements for which negotiations have already begun

(a) Certain agreements

Notwithstanding the prenegotiation notification and consultation requirement described in section 3804(a) of this title, if an agreement to which section 3803(b) of this title applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before August 6, 2002, subsection (b) of this section shall apply.

(b) Treatment of agreements

In the case of any agreement to which subsection (a) of this section applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 3804(a) of this title (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 3805(b)(1)(B) of this title shall not be in order on the basis of a failure or refusal to comply with the provisions of section 3804(a) of this title; and

(2) the President shall, as soon as feasible after August 6, 2002—

(A) notify the Congress of the negotiations described in subsection (a) of this section, the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 3804(a)(2) of this title and the Congressional Oversight Group convened under section 3807 of this title.

(Pub. L. 107–210, div. B, title XXI, § 2106, Aug. 6, 2002, 116 Stat. 1016.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13277, Nov. 19, 2002, 67 F.R. 70305, set out as a note under section 3801 of this title.

§ 3807. Congressional Oversight Group

(a) Members and functions

(1) In general

By not later than 60 days after August 6, 2002, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) Membership from the House

In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3