

110TH CONGRESS  
2D SESSION

# S. 2830

To implement the United States-Colombia Trade Promotion Agreement.

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## IN THE SENATE OF THE UNITED STATES

APRIL 8, 2008

Mr. REID (for himself, Mr. GRASSLEY, and Mr. McCONNELL) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance pursuant to section 2103(c) of Public Law 107–210

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## A BILL

To implement the United States-Colombia Trade Promotion Agreement.

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

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “United States-Colombia Trade Promotion Agreement  
6       Implementation Act”.

7       (b) TABLE OF CONTENTS.—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

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

- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Arbitration of claims.
- Sec. 107. Effective dates; effect of termination.

## TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Additional duties on certain agricultural goods.
- Sec. 203. Rules of origin.
- Sec. 204. Customs user fees.
- Sec. 205. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 206. Reliquidation of entries.
- Sec. 207. Recordkeeping requirements.
- Sec. 208. Enforcement relating to trade in textile or apparel goods.
- Sec. 209. Regulations.

## TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

### Subtitle A—Relief From Imports Benefiting From the Agreement

- Sec. 311. Commencing of action for relief.
- Sec. 312. Commission action on petition.
- Sec. 313. Provision of relief.
- Sec. 314. Termination of relief authority.
- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

### Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Confidential business information.

### Subtitle C—Cases Under Title II of the Trade Act of 1974

- Sec. 331. Findings and action on goods of Colombia.

## TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

## TITLE V—OFFSETS

Sec. 501. Customs user fees.

Sec. 502. Time for payment of corporate estimated taxes.

1   **SEC. 2. PURPOSES.**

2       The purposes of this Act are—

3           (1) to approve and implement the free trade  
4       agreement between the United States and Colombia  
5       entered into under the authority of section 2103(b)  
6       of the Bipartisan Trade Promotion Authority Act of  
7       2002 (19 U.S.C. 3803(b));

8           (2) to strengthen and develop economic rela-  
9       tions between the United States and Colombia for  
10      their mutual benefit;

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

15          (4) to lay the foundation for further coopera-  
16      tion to expand and enhance the benefits of the  
17      Agreement.

18   **SEC. 3. DEFINITIONS.**

19      In this Act:

20          (1) **AGREEMENT.**—The term “Agreement”  
21      means the United States-Colombia Trade Promotion  
22      Agreement approved by Congress under section  
23      101(a)(1).

1           (2) COMMISSION.—The term “Commission”  
 2       means the United States International Trade Com-  
 3       mission.

4           (3) HTS.—The term “HTS” means the Har-  
 5       monized Tariff Schedule of the United States.

6           (4) TEXTILE OR APPAREL GOOD.—The term  
 7       “textile or apparel good” means a good listed in the  
 8       Annex to the Agreement on Textiles and Clothing  
 9       referred to in section 101(d)(4) of the Uruguay  
 10      Round Agreements Act (19 U.S.C. 3511(d)(4)),  
 11      other than a good listed in Annex 3–C of the Agree-  
 12      ment.

13 **TITLE I—APPROVAL OF, AND**  
 14 **GENERAL PROVISIONS RE-**  
 15 **LATING TO, THE AGREEMENT**

16 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**  
 17 **AGREEMENT.**

18       (a) APPROVAL OF AGREEMENT AND STATEMENT OF  
 19       ADMINISTRATIVE ACTION.—Pursuant to section 2105 of  
 20       the Bipartisan Trade Promotion Authority Act of 2002  
 21       (19 U.S.C. 3805) and section 151 of the Trade Act of  
 22       1974 (19 U.S.C. 2191), Congress approves—

23           (1) the United States-Colombia Trade Pro-  
 24       motion Agreement entered into on November 22,  
 25       2006, with the Government of Colombia, as amend-

1 ed on June 28, 2007, by the United States and Co-  
2 lombia, and submitted to Congress on April 8, 2008;  
3 and

4 (2) the statement of administrative action pro-  
5 posed to implement the Agreement that was sub-  
6 mitted to Congress on April 8, 2008.

7 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE  
8 AGREEMENT.—At such time as the President determines  
9 that Colombia has taken measures necessary to comply  
10 with those provisions of the Agreement that are to take  
11 effect on the date on which the Agreement enters into  
12 force, the President is authorized to exchange notes with  
13 the Government of Colombia providing for the entry into  
14 force, on or after January 1, 2009, of the Agreement with  
15 respect to the United States.

16 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
17 **STATES AND STATE LAW.**

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

20 (1) UNITED STATES LAW TO PREVAIL IN CON-  
21 FFLICT.—No provision of the Agreement, nor the ap-  
22 plication of any such provision to any person or cir-  
23 cumstance, which is inconsistent with any law of the  
24 United States shall have effect.

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

3                   (A) to amend or modify any law of the  
4       United States; or

5                   (B) to limit any authority conferred under  
6       any law of the United States,  
7       unless specifically provided for in this Act.

8       (b) RELATIONSHIP OF AGREEMENT TO STATE  
9       LAW.—

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

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

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

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

23       (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-  
24       VATE REMEDIES.—No person other than the United  
25       States—

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

4           (2) may challenge, in any action brought under  
5           any provision of law, any action or inaction by any  
6           department, agency, or other instrumentality of the  
7           United States, any State, or any political subdivision  
8           of a State, on the ground that such action or inac-  
9           tion is inconsistent with the Agreement.

10 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**  
11 **ENTRY INTO FORCE AND INITIAL REGULA-**  
12 **TIONS.**

13           (a) IMPLEMENTING ACTIONS.—

14           (1) PROCLAMATION AUTHORITY.—After the  
15           date of the enactment of this Act—

16                   (A) the President may proclaim such ac-  
17                   tions, and

18                   (B) other appropriate officers of the  
19           United States Government may issue such reg-  
20           ulations,

21           as may be necessary to ensure that any provision of  
22           this Act, or amendment made by this Act, that takes  
23           effect on the date on which the Agreement enters  
24           into force is appropriately implemented on such  
25           date, but no such proclamation or regulation may

1        have an effective date earlier than the date on which  
2        the Agreement enters into force.

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

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

17        (b) INITIAL REGULATIONS.—Initial regulations nec-  
18        essary or appropriate to carry out the actions required by  
19        or authorized under this Act or proposed in the statement  
20        of administrative action submitted under section  
21        101(a)(2) to implement the Agreement shall, to the max-  
22        imum extent feasible, be issued within 1 year after the  
23        date on which the Agreement enters into force. In the case  
24        of any implementing action that takes effect on a date  
25        after the date on which the Agreement enters into force,



1 initial regulations to carry out that action shall, to the  
2 maximum extent feasible, be issued within 1 year after  
3 such effective date.

4 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**  
5 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**  
6 **TIONS.**

7 If a provision of this Act provides that the implemen-  
8 tation of an action by the President by proclamation is  
9 subject to the consultation and layover requirements of  
10 this section, such action may be proclaimed only if—

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

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

16 (B) the Commission;

17 (2) the President has submitted to the Com-  
18 mittee on Finance of the Senate and the Committee  
19 on Ways and Means of the House of Representatives  
20 a report that sets forth—

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

23 (B) the advice obtained under paragraph  
24 (1);

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

5           (4) the President has consulted with the com-  
6           mittees referred to in paragraph (2) regarding the  
7           proposed action during the period referred to in  
8           paragraph (3).

9   **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
10                           **CEEDINGS.**

11           (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—  
12   The President is authorized to establish or designate with-  
13   in the Department of Commerce an office that shall be  
14   responsible for providing administrative assistance to pan-  
15   els established under chapter 21 of the Agreement. The  
16   office shall not be considered to be an agency for purposes  
17   of section 552 of title 5, United States Code.

18           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
19   are authorized to be appropriated for each fiscal year after  
20   fiscal year 2008 to the Department of Commerce such  
21   sums as may be necessary for the establishment and oper-  
22   ations of the office established or designated under sub-  
23   section (a) and for the payment of the United States share  
24   of the expenses of panels established under chapter 21 of  
25   the Agreement.

1 **SEC. 106. ARBITRATION OF CLAIMS.**

2       The United States is authorized to resolve any claim  
3 against the United States covered by article  
4 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agree-  
5 ment, pursuant to the Investor-State Dispute Settlement  
6 procedures set forth in section B of chapter 10 of the  
7 Agreement.

8 **SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.**

9       (a) **EFFECTIVE DATES.**—Except as provided in sub-  
10 section (b), this Act and the amendments made by this  
11 Act take effect on the date on which the Agreement enters  
12 into force.

13       (b) **EXCEPTIONS.**—Sections 1 through 3 and this  
14 title take effect on the date of the enactment of this Act.

15       (c) **TERMINATION OF THE AGREEMENT.**—On the  
16 date on which the Agreement terminates, this Act (other  
17 than this subsection) and the amendments made by this  
18 Act shall cease to have effect.

19 **TITLE II—CUSTOMS PROVISIONS**

20 **SEC. 201. TARIFF MODIFICATIONS.**

21       (a) **TARIFF MODIFICATIONS PROVIDED FOR IN THE**  
22 **AGREEMENT.**—

23               (1) **PROCLAMATION AUTHORITY.**—The Presi-  
24 dent may proclaim—

25                       (A) such modifications or continuation of  
26                       any duty,

1 (B) such continuation of duty-free or ex-  
2 cise treatment, or

3 (C) such additional duties,  
4 as the President determines to be necessary or ap-  
5 propriate to carry out or apply articles 2.3, 2.5, 2.6,  
6 3.3.13, and Annex 2.3 of the Agreement.

7 (2) EFFECT ON GSP STATUS.—Notwithstanding  
8 section 502(a)(1) of the Trade Act of 1974 (19  
9 U.S.C. 2462(a)(1)), the President shall, on the date  
10 on which the Agreement enters into force, terminate  
11 the designation of Colombia as a beneficiary devel-  
12 oping country for purposes of title V of the Trade  
13 Act of 1974 (19 U.S.C. 2461 et seq.).

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

17 (1) such modifications or continuation of any  
18 duty,

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

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

25 (4) such additional duties,

1 as the President determines to be necessary or appropriate  
 2 to maintain the general level of reciprocal and mutually  
 3 advantageous concessions with respect to Colombia pro-  
 4 vided for by the Agreement.

5 (c) CONVERSION TO AD VALOREM RATES.—For pur-  
 6 poses of subsections (a) and (b), with respect to any good  
 7 for which the base rate in the Schedule of the United  
 8 States to Annex 2.3 of the Agreement is a specific or com-  
 9 pound rate of duty, the President may substitute for the  
 10 base rate an ad valorem rate that the President deter-  
 11 mines to be equivalent to the base rate.

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

19 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**  
 20 **TURAL GOODS.**

21 (a) DEFINITIONS.—In this section:

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

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

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

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

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

18 (3) SAFEGUARD GOOD.—The term “safeguard  
 19 good” means a good—

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

22 (B) that qualifies as an originating good  
 23 under section 203, except that operations per-  
 24 formed in or material obtained from the United  
 25 States shall be considered as if the operations

1           were performed in, and the material was ob-  
2           tained from, a country that is not a party to  
3           the Agreement; and

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

6       (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

7           (1) IN GENERAL.—In addition to any duty pro-  
8           claimed under subsection (a) or (b) of section 201,  
9           the Secretary of the Treasury shall assess a duty, in  
10          the amount determined under paragraph (2), on a  
11          safeguard good imported into the United States in  
12          a calendar year if the Secretary determines that,  
13          prior to such importation, the total volume of that  
14          safeguard good that is imported into the United  
15          States in that calendar year exceeds 140 percent of  
16          the volume that is provided for that safeguard good  
17          in the corresponding year in the applicable table  
18          contained in Appendix I of the General Notes to the  
19          Schedule of the United States to Annex 2.3 of the  
20          Agreement. For purposes of this subsection, year 1  
21          in that table corresponds to the calendar year in  
22          which the Agreement enters into force.

23          (2) CALCULATION OF ADDITIONAL DUTY.—The  
24          additional duty on a safeguard good under this sub-  
25          section shall be—

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

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

9 (C) in years 8 through 9, an amount equal  
 10 to 50 percent of the excess of the applicable  
 11 NTR (MFN) rate of duty over the schedule  
 12 rate of duty.

13 (3) NOTICE.—Not later than 60 days after the  
 14 Secretary of the Treasury first assesses an addi-  
 15 tional duty in a calendar year on a good under this  
 16 subsection, the Secretary shall notify the Govern-  
 17 ment of Colombia in writing of such action and shall  
 18 provide to that Government data supporting the as-  
 19 sessment of the additional duty.

20 (c) EXCEPTIONS.—No additional duty shall be as-  
 21 sessed on a good under subsection (b) if, at the time of  
 22 entry, the good is subject to import relief under—

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

24 (2) chapter 1 of title II of the Trade Act of  
 25 1974 (19 U.S.C. 2251 et seq.).



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

6 **SEC. 203. RULES OF ORIGIN.**

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

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

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

15 (3) COST OR VALUE.—Any cost or value re-  
 16 ferred to in this section shall be recorded and main-  
 17 tained in accordance with the generally accepted ac-  
 18 counting principles applicable in the territory of the  
 19 country in which the good is produced (whether Co-  
 20 lombia or the United States).

21 (b) ORIGINATING GOODS.—For purposes of this Act  
 22 and for purposes of implementing the preferential tariff  
 23 treatment provided for under the Agreement, except as  
 24 otherwise provided in this section, a good is an originating  
 25 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

1 to which paragraph (4) applies, shall be calculated  
 2 by the importer, exporter, or producer of the good,  
 3 on the basis of the build-down method described in  
 4 paragraph (2) or the build-up method described in  
 5 paragraph (3).

6 (2) BUILD-DOWN METHOD.—

7 (A) IN GENERAL.—The regional value-con-  
 8 tent of a good may be calculated on the basis  
 9 of the following build-down method:

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

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

11 (i) AV.—The term “AV” means the  
 12 adjusted value of the good.

13 (ii) RVC.—The term “RVC” means  
 14 the regional value-content of the good, ex-  
 15 pressed as a percentage.

16 (iii) VNM.—The term “VNM” means  
 17 the value of nonoriginating materials that  
 18 are acquired and used by the producer in  
 19 the production of the good, but does not  
 20 include the value of a material that is self-  
 21 produced.

22 (3) BUILD-UP METHOD.—

1 (A) IN GENERAL.—The regional value-con-  
 2 tent of a good may be calculated on the basis  
 3 of the following build-up method:

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

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

5 (i) AV.—The term “AV” means the  
 6 adjusted value of the good.

7 (ii) RVC.—The term “RVC” means  
 8 the regional value-content of the good, ex-  
 9 pressed as a percentage.

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

14 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
 15 GOODS.—

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

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

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

2 (i) AUTOMOTIVE GOOD.—The term  
3 “automotive good” means a good provided  
4 for in any of subheadings 8407.31 through  
5 8407.34, subheading 8408.20, heading  
6 8409, or any of headings 8701 through  
7 8708.

8 (ii) RVC.—The term “RVC” means  
9 the regional value-content of the auto-  
10 motive good, expressed as a percentage.

11 (iii) NC.—The term “NC” means the  
12 net cost of the automotive good.

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

19 (C) MOTOR VEHICLES.—

20 (i) BASIS OF CALCULATION.—For  
21 purposes of determining the regional value-  
22 content under subparagraph (A) for an  
23 automotive good that is a motor vehicle  
24 provided for in any of headings 8701  
25 through 8705, an importer, exporter, or

1 producer may average the amounts cal-  
2 culated under the formula contained in  
3 subparagraph (A), over the producer's fis-  
4 cal year—

5 (I) with respect to all motor vehi-  
6 cles in any one of the categories de-  
7 scribed in clause (ii); or

8 (II) with respect to all motor ve-  
9 hicles in any such category that are  
10 exported to the territory of the United  
11 States or Colombia.

12 (ii) CATEGORIES.—A category is de-  
13 scribed in this clause if it—

14 (I) is the same model line of  
15 motor vehicles, is in the same class of  
16 motor vehicles, and is produced in the  
17 same plant in the territory of Colom-  
18 bia or the United States, as the good  
19 described in clause (i) for which re-  
20 gional value-content is being cal-  
21 culated;

22 (II) is the same class of motor  
23 vehicles, and is produced in the same  
24 plant in the territory of Colombia or  
25 the United States, as the good de-

scribed in clause (i) for which regional  
value-content is being calculated; or

(III) is the same model line of  
motor vehicles produced in the terri-  
tory 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-con-  
tent 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 subpara-  
graph (A) over—

(I) the fiscal year of the motor  
vehicle producer to whom the auto-  
motive goods are sold,

(II) any quarter or month, or

(III) the fiscal year of the pro-  
ducer of such goods,

1 if the goods were produced during the fis-  
2 cal year, quarter, or month that is the  
3 basis for the calculation;

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

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

11 (E) CALCULATING NET COST.—The im-  
12 porter, exporter, or producer of an automotive  
13 good shall, consistent with the provisions re-  
14 garding allocation of costs provided for in gen-  
15 erally accepted accounting principles, determine  
16 the net cost of the automotive good under sub-  
17 paragraph (B) by—

18 (i) calculating the total cost incurred  
19 with respect to all goods produced by the  
20 producer of the automotive good, sub-  
21 tracting any sales promotion, marketing,  
22 and after-sales service costs, royalties,  
23 shipping and packing costs, and nonallow-  
24 able interest costs that are included in the  
25 total cost of all such goods, and then rea-



sonably 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

1        minimis rules under subsection (f), the value of a  
2        material is—

3                (A) in the case of a material that is im-  
4                ported by the producer of the good, the ad-  
5                justed value of the material;

6                (B) in the case of a material acquired in  
7                the territory in which the good is produced, the  
8                value, determined in accordance with Articles 1  
9                through 8, Article 15, and the corresponding in-  
10              terpretive notes, of the Agreement on Imple-  
11              mentation of Article VII of the General Agree-  
12              ment on Tariffs and Trade 1994 referred to in  
13              section 101(d)(8) of the Uruguay Round Agree-  
14              ments Act (19 U.S.C. 3511(d)(8)), as set forth  
15              in regulations promulgated by the Secretary of  
16              the Treasury providing for the application of  
17              such Articles in the absence of an importation  
18              by the producer; or

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

21                      (i) all expenses incurred in the pro-  
22                      duction of the material, including general  
23                      expenses; and

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

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

6 (A) ORIGINATING MATERIAL.—The fol-  
 7 lowing expenses, if not included in the value of  
 8 an originating material calculated under para-  
 9 graph (1), may be added to the value of the  
 10 originating material:

11 (i) The costs of freight, insurance,  
 12 packing, and all other costs incurred in  
 13 transporting the material within or be-  
 14 tween the territory of Colombia, the United  
 15 States, or both, to the location of the pro-  
 16 ducer.

17 (ii) Duties, taxes, and customs broker-  
 18 age fees on the material paid in the terri-  
 19 tory of Colombia, the United States, or  
 20 both, other than duties or taxes that are  
 21 waived, refunded, refundable, or otherwise  
 22 recoverable, including credit against duty  
 23 or tax paid or payable.

24 (iii) The cost of waste and spoilage re-  
 25 sulting from the use of the material in the

1 production of the good, less the value of  
2 renewable scrap or byproducts.

3 (B) NONORIGINATING MATERIAL.—The  
4 following expenses, if included in the value of a  
5 nonoriginating material calculated under para-  
6 graph (1), may be deducted from the value of  
7 the nonoriginating material:

8 (i) The costs of freight, insurance,  
9 packing, and all other costs incurred in  
10 transporting the material within or be-  
11 tween the territory of Colombia, the United  
12 States, or both, to the location of the pro-  
13 ducer.

14 (ii) Duties, taxes, and customs broker-  
15 age fees on the material paid in the terri-  
16 tory of Colombia, the United States, or  
17 both, other than duties or taxes that are  
18 waived, refunded, refundable, or otherwise  
19 recoverable, including credit against duty  
20 or tax paid or payable.

21 (iii) The cost of waste and spoilage re-  
22 sulting from the use of the material in the  
23 production of the good, less the value of  
24 renewable scrap or byproducts.

1 (iv) The cost of originating materials  
2 used in the production of the nonorigi-  
3 nating material in the territory of Colom-  
4 bia, the United States, or both.

5 (e) ACCUMULATION.—

6 (1) ORIGINATING MATERIALS USED IN PRODUC-  
7 TION OF GOODS OF ANOTHER COUNTRY.—Orig-  
8 inating materials from the territory of Colombia or  
9 the United States that are used in the production of  
10 a good in the territory of the other country shall be  
11 considered to originate in the territory of such other  
12 country.

13 (2) MULTIPLE PRODUCERS.—A good that is  
14 produced in the territory of Colombia, the United  
15 States, or both, by 1 or more producers, is an origi-  
16 nating good if the good satisfies the requirements of  
17 subsection (b) and all other applicable requirements  
18 of this section.

19 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
20 TERIALS.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graphs (2) and (3), a good that does not undergo a  
23 change in tariff classification pursuant to Annex 4.1  
24 of the Agreement is an originating good if—

1 (A)(i) the value of all nonoriginating mate-  
 2 rials that—

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

5 (II) do not undergo the applicable  
 6 change in tariff classification (set forth in  
 7 Annex 4.1 of the Agreement),  
 8 does not exceed 10 percent of the adjusted  
 9 value of the good;

10 (ii) the good meets all other applicable re-  
 11 quirements of this section; and

12 (iii) the value of such nonoriginating mate-  
 13 rials is included in the value of nonoriginating  
 14 materials for any applicable regional value-con-  
 15 tent requirement for the good; or

16 (B) the good meets the requirements set  
 17 forth in paragraph 2 of Annex 4.6 of the Agree-  
 18 ment.

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

21 (A) A nonoriginating material provided for  
 22 in chapter 4, or a nonoriginating dairy prepara-  
 23 tion containing over 10 percent by weight of  
 24 milk solids provided for in subheading 1901.90

1 or 2106.90, that is used in the production of a  
2 good provided for in chapter 4.

3 (B) A nonoriginating material provided for  
4 in chapter 4, or a nonoriginating dairy prepara-  
5 tion containing over 10 percent by weight of  
6 milk solids provided for in subheading 1901.90,  
7 that is used in the production of any of the fol-  
8 lowing goods:

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

12 (ii) Mixes and doughs, containing over  
13 25 percent by weight of butterfat, not put  
14 up for retail sale, provided for in sub-  
15 heading 1901.20.

16 (iii) Dairy preparations containing  
17 over 10 percent by weight of milk solids  
18 provided for in subheading 1901.90 or  
19 2106.90.

20 (iv) Goods provided for in heading  
21 2105.

22 (v) Beverages containing milk pro-  
23 vided for in subheading 2202.90.

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

4 (C) A nonoriginating material provided for  
5 in heading 0805, or any of subheadings  
6 2009.11 through 2009.39, that is used in the  
7 production of a good provided for in any of sub-  
8 headings 2009.11 through 2009.39, or in fruit  
9 or vegetable juice of any single fruit or vege-  
10 table, fortified with minerals or vitamins, con-  
11 centrated or unconcentrated, provided for in  
12 subheading 2106.90 or 2202.90.

13 (D) A nonoriginating material provided for  
14 in heading 0901 or 2101 that is used in the  
15 production of a good provided for in heading  
16 0901 or 2101.

17 (E) A nonoriginating material provided for  
18 in chapter 15 that is used in the production of  
19 a good provided for in any of headings 1501  
20 through 1508, or any of headings 1511 through  
21 1515.

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



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

4 (H) Except as provided in subparagraphs  
 5 (A) through (G) and Annex 4.1 of the Agree-  
 6 ment, a nonoriginating material used in the  
 7 production of a good provided for in any of  
 8 chapters 1 through 24, unless the nonorigi-  
 9 nating material is provided for in a different  
 10 subheading than the good for which origin is  
 11 being determined under this section.

12 (I) A nonoriginating material that is a tex-  
 13 tile or apparel good.

14 (3) TEXTILE OR APPAREL GOODS.—

15 (A) IN GENERAL.—Except as provided in  
 16 subparagraph (B), a textile or apparel good  
 17 that is not an originating good because certain  
 18 fibers or yarns used in the production of the  
 19 component of the good that determines the tar-  
 20 iff classification of the good do not undergo an  
 21 applicable change in tariff classification, set  
 22 forth in Annex 3–A of the Agreement, shall be  
 23 considered to be an originating good if—

24 (i) the total weight of all such fibers  
 25 or yarns in that component is not more

1           than 10 percent of the total weight of that  
2           component; or

3           (ii) the yarns are those described in  
4           section 204(b)(3)(B)(vi)(IV) of the Andean  
5           Trade Preference Act (19 U.S.C.  
6           3203(b)(3)(B)(vi)(IV)) (as in effect on the  
7           date of the enactment of this Act).

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

16          (C) YARN, FABRIC, OR FIBER.—For pur-  
17          poses of this paragraph, in the case of a good  
18          that is a yarn, fabric, or fiber, the term “com-  
19          ponent of the good that determines the tariff  
20          classification of the good” means all of the fi-  
21          bers in the good.

22          (g) FUNGIBLE GOODS AND MATERIALS.—

23               (1) IN GENERAL.—

24               (A) CLAIM FOR PREFERENTIAL TARIFF  
25          TREATMENT.—A person claiming that a fun-

gible 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 fungible material shall continue to use that meth-

1       od for that fungible good or fungible material  
2       throughout the fiscal year of such person.

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

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

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

10            (B) be disregarded in determining whether  
11       all the nonoriginating materials used in the pro-  
12       duction of the good undergo the applicable  
13       change in tariff classification set forth in Annex  
14       4.1 of the Agreement.

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

17             (A) the accessories, spare parts, or tools  
18       are classified with and not invoiced separately  
19       from the good, regardless of whether such ac-  
20       cessories, spare parts, or tools are specified or  
21       are separately identified in the invoice for the  
22       good; and

23             (B) the quantities and value of the acces-  
24       sories, spare parts, or tools are customary for  
25       the good.

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

7       (i) PACKAGING MATERIALS AND CONTAINERS FOR  
8       RETAIL SALE.—Packaging materials and containers in  
9       which a good is packaged for retail sale, if classified with  
10      the good, shall be disregarded in determining whether all  
11      the nonoriginating materials used in the production of the  
12      good undergo the applicable change in tariff classification  
13      set forth in Annex 3–A or Annex 4.1 of the Agreement,  
14      and, if the good is subject to a regional value-content re-  
15      quirement, the value of such packaging materials and con-  
16      tainers shall be taken into account as originating or non-  
17      originating materials, as the case may be, in calculating  
18      the regional value-content of the good.

19      (j) PACKING MATERIALS AND CONTAINERS FOR  
20      SHIPMENT.—Packing materials and containers for ship-  
21      ment shall be disregarded in determining whether a good  
22      is an originating good.

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

1 (l) TRANSIT AND TRANSHIPMENT.—A good that has  
 2 undergone production necessary to qualify as an origi-  
 3 nating good under subsection (b) shall not be considered  
 4 to be an originating good if, subsequent to that produc-  
 5 tion, the good—

6 (1) undergoes further production or any other  
 7 operation outside the territory of Colombia or the  
 8 United States, other than unloading, reloading, or  
 9 any other operation necessary to preserve the good  
 10 in good condition or to transport the good to the ter-  
 11 ritory of Colombia or the United States; or

12 (2) does not remain under the control of cus-  
 13 toms authorities in the territory of a country other  
 14 than Colombia or the United States.

15 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN  
 16 SETS.—Notwithstanding the rules set forth in Annex 3–  
 17 A and Annex 4.1 of the Agreement, goods classifiable as  
 18 goods put up in sets for retail sale as provided for in Gen-  
 19 eral Rule of Interpretation 3 of the HTS shall not be con-  
 20 sidered to be originating goods unless—

21 (1) each of the goods in the set is an origi-  
 22 nating good; or

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

1 (A) in the case of textile or apparel goods,  
 2 10 percent of the adjusted value of the set; or

3 (B) in the case of a good, other than a tex-  
 4 tile or apparel good, 15 percent of the adjusted  
 5 value of the set.

6 (n) DEFINITIONS.—In this section:

7 (1) ADJUSTED VALUE.—The term “adjusted  
 8 value” means the value determined in accordance  
 9 with articles 1 through 8, article 15, and the cor-  
 10 responding interpretive notes, of the Agreement on  
 11 Implementation of Article VII of the General Agree-  
 12 ment on Tariffs and Trade 1994 referred to in sec-  
 13 tion 101(d)(8) of the Uruguay Round Agreements  
 14 Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary,  
 15 to exclude any costs, charges, or expenses incurred  
 16 for transportation, insurance, and related services  
 17 incident to the international shipment of the mer-  
 18 chandise from the country of exportation to the  
 19 place of importation.

20 (2) CLASS OF MOTOR VEHICLES.—The term  
 21 “class of motor vehicles” means any one of the fol-  
 22 lowing categories of motor vehicles:

23 (A) Motor vehicles provided for in sub-  
 24 heading 8701.20, 8704.10, 8704.22, 8704.23,  
 25 8704.32, or 8704.90, or heading 8705 or 8706,

1 or motor vehicles for the transport of 16 or  
2 more persons provided for in subheading  
3 8702.10 or 8702.90.

4 (B) Motor vehicles provided for in sub-  
5 heading 8701.10 or any of subheadings  
6 8701.30 through 8701.90.

7 (C) Motor vehicles for the transport of 15  
8 or fewer persons provided for in subheading  
9 8702.10 or 8702.90, or motor vehicles provided  
10 for in subheading 8704.21 or 8704.31.

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

13 (3) FUNGIBLE GOOD OR FUNGIBLE MATE-  
14 RIAL.—The term “fungible good” or “fungible mate-  
15 rial” means a good or material, as the case may be,  
16 that is interchangeable with another good or mate-  
17 rial for commercial purposes and the properties of  
18 which are essentially identical to such other good or  
19 material.

20 (4) GENERALLY ACCEPTED ACCOUNTING PRIN-  
21 CIPLES.—The term “generally accepted accounting  
22 principles” means the recognized consensus or sub-  
23 stantial authoritative support in the territory of Co-  
24 lombia or the United States, as the case may be,  
25 with respect to the recording of revenues, expenses,



1 costs, assets, and liabilities, the disclosure of infor-  
2 mation, and the preparation of financial statements.  
3 The principles may encompass broad guidelines of  
4 general application as well as detailed standards,  
5 practices, and procedures.

6 (5) GOOD WHOLLY OBTAINED OR PRODUCED  
7 ENTIRELY IN THE TERRITORY OF COLOMBIA, THE  
8 UNITED STATES, OR BOTH.—The term “good wholly  
9 obtained or produced entirely in the territory of Co-  
10 lombia, the United States, or both” means any of  
11 the following:

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

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

18 (C) Goods obtained in the territory of Co-  
19 lombia, the United States, or both from live  
20 animals.

21 (D) Goods obtained from hunting, trap-  
22 ping, fishing, or aquaculture conducted in the  
23 territory of Colombia, the United States, or  
24 both.

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

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

9 (i) a vessel that is registered or re-  
10 corded with Colombia and flying the flag of  
11 Colombia; or

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

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

17 (i) is registered or recorded with Co-  
18 lombia and flies the flag of Colombia; or

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

21 (H)(i) Goods taken by Colombia or a per-  
22 son of Colombia from the seabed or subsoil out-  
23 side the territorial waters of Colombia, if Co-  
24 lombia has rights to exploit such seabed or sub-  
25 soil.

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

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

12          (J) Waste and scrap derived from—

13               (i) manufacturing or processing oper-  
14               ations in the territory of Colombia, the  
15               United States, or both; or

16               (ii) used goods collected in the terri-  
17               tory of Colombia, the United States, or  
18               both, if such goods are fit only for the re-  
19               covery of raw materials.

20          (K) Recovered goods derived in the terri-  
21          tory of Colombia, the United States, or both,  
22          from used goods, and used in the territory of  
23          Colombia, the United States, or both, in the  
24          production of remanufactured goods.

1 (L) Goods, at any stage of production, pro-  
 2 duced in the territory of Colombia, the United  
 3 States, or both, exclusively from—

4 (i) goods referred to in any of sub-  
 5 paragraphs (A) through (J); or

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

8 (6) IDENTICAL GOODS.—The term “identical  
 9 goods” means goods that are the same in all re-  
 10 spects relevant to the rule of origin that qualifies the  
 11 goods as originating goods.

12 (7) INDIRECT MATERIAL.—The term “indirect  
 13 material” means a good used in the production, test-  
 14 ing, or inspection of another good but not physically  
 15 incorporated into that other good, or a good used in  
 16 the maintenance of buildings or the operation of  
 17 equipment associated with the production of another  
 18 good, including—

19 (A) fuel and energy;

20 (B) tools, dies, and molds;

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

23 (D) lubricants, greases, compounding ma-  
 24 terials, and other materials used in production  
 25 or used to operate equipment or buildings;

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

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

5 (G) catalysts and solvents; and

6 (H) any other goods that are not incor-  
7 porated into the other good but the use of  
8 which in the production of the other good can  
9 reasonably be demonstrated to be a part of that  
10 production.

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

14 (9) MATERIAL THAT IS SELF-PRODUCED.—The  
15 term “material that is self-produced” means an orig-  
16 inating material that is produced by a producer of  
17 a good and used in the production of that good.

18 (10) MODEL LINE OF MOTOR VEHICLES.—The  
19 term “model line of motor vehicles” means a group  
20 of motor vehicles having the same platform or model  
21 name.

22 (11) NET COST.—The term “net cost” means  
23 total cost minus sales promotion, marketing, and  
24 after-sales service costs, royalties, shipping and

1        packing costs, and nonallowable interest costs that  
2        are included in the total cost.

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

9            (13) NONORIGINATING GOOD OR NONORIGI-  
10        NATING MATERIAL.—The terms “nonoriginating  
11        good” and “nonoriginating material” mean a good  
12        or material, as the case may be, that does not qual-  
13        ify as originating under this section.

14           (14) PACKING MATERIALS AND CONTAINERS  
15        FOR SHIPMENT.—The term “packing materials and  
16        containers for shipment” means goods used to pro-  
17        tect another good during its transportation and does  
18        not include the packaging materials and containers  
19        in which the other good is packaged for retail sale.

20           (15) PREFERENTIAL TARIFF TREATMENT.—  
21        The term “preferential tariff treatment” means the  
22        customs duty rate, and the treatment under article  
23        2.10.4 of the Agreement, that is applicable to an  
24        originating good pursuant to the Agreement.

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

4           (17) PRODUCTION.—The term “production”  
5           means growing, mining, harvesting, fishing, raising,  
6           trapping, hunting, manufacturing, processing, as-  
7           sembling, or disassembling a good.

8           (18) REASONABLY ALLOCATE.—The term “rea-  
9           sonably allocate” means to apportion in a manner  
10          that would be appropriate under generally accepted  
11          accounting principles.

12          (19) RECOVERED GOODS.—The term “recov-  
13          ered goods” means materials in the form of indi-  
14          vidual parts that are the result of—

15                (A) the disassembly of used goods into in-  
16                dividual parts; and

17                (B) the cleaning, inspecting, testing, or  
18                other processing that is necessary for improve-  
19                ment to sound working condition of such indi-  
20                vidual parts.

21          (20) REMANUFACTURED GOOD.—The term “re-  
22          manufactured good” means an industrial good as-  
23          sembled in the territory of Colombia or the United  
24          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 re-  
covered goods; and

(B) has a similar life expectancy and en-  
joys 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 para-  
graph:

(i) PRODUCT COSTS.—The term  
“product costs” means costs that are asso-  
ciated with the production of a good and



1 include the value of materials, direct labor  
2 costs, and direct overhead.

3 (ii) PERIOD COSTS.—The term “pe-  
4 riod costs” means costs, other than prod-  
5 uct costs, that are expensed in the period  
6 in which they are incurred, such as selling  
7 expenses and general and administrative  
8 expenses.

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

13 (22) USED.—The term “used” means utilized  
14 or consumed in the production of goods.

15 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

18 (A) the provisions set forth in Annex 3–A  
19 and Annex 4.1 of the Agreement; and

20 (B) any additional subordinate category  
21 that is necessary to carry out this title con-  
22 sistent with the Agreement.

23 (2) FABRICS AND YARNS NOT AVAILABLE IN  
24 COMMERCIAL QUANTITIES IN THE UNITED  
25 STATES.—The President is authorized to proclaim

1 that a fabric or yarn is added to the list in Annex  
2 3-B of the Agreement in an unrestricted quantity,  
3 as provided in article 3.3.5(e) of the Agreement.

4 (3) MODIFICATIONS.—

5 (A) IN GENERAL.—Subject to the consulta-  
6 tion and layover provisions of section 104, the  
7 President may proclaim modifications to the  
8 provisions proclaimed under the authority of  
9 paragraph (1)(A), other than provisions of  
10 chapters 50 through 63 (as included in Annex  
11 3-A of the Agreement).

12 (B) ADDITIONAL PROCLAMATIONS.—Not-  
13 withstanding subparagraph (A), and subject to  
14 the consultation and layover provisions of sec-  
15 tion 104, the President may proclaim before the  
16 end of the 1-year period beginning on the date  
17 of the enactment of this Act, modifications to  
18 correct any typographical, clerical, or other non-  
19 substantive technical error regarding the provi-  
20 sions of chapters 50 through 63 (as included in  
21 Annex 3-A of the Agreement).

22 (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-  
23 ABLE IN COMMERCIAL QUANTITIES IN COLOMBIA  
24 AND THE UNITED STATES.—

1 (A) IN GENERAL.—Notwithstanding para-  
2 graph (3)(A), the list of fabrics, yarns, and fi-  
3 bers set forth in Annex 3–B of the Agreement  
4 may be modified as provided for in this para-  
5 graph.

6 (B) DEFINITIONS.—In this paragraph:

7 (i) The term “interested entity”  
8 means the Government of Colombia, a po-  
9 tential or actual purchaser of a textile or  
10 apparel good, or a potential or actual sup-  
11 plier of a textile or apparel good.

12 (ii) All references to “day” and  
13 “days” exclude Saturdays, Sundays, and  
14 legal holidays observed by the Government  
15 of the United States.

16 (C) REQUESTS TO ADD FABRICS, YARNS,  
17 OR FIBERS.—(i) An interested entity may re-  
18 quest the President to determine that a fabric,  
19 yarn, or fiber is not available in commercial  
20 quantities in a timely manner in Colombia and  
21 the United States and to add that fabric, yarn,  
22 or fiber to the list in Annex 3–B of the Agree-  
23 ment in a restricted or unrestricted quantity.

24 (ii) After receiving a request under clause  
25 (i), the President may determine whether—

1 (I) the fabric, yarn, or fiber is avail-  
2 able in commercial quantities in a timely  
3 manner in Colombia or the United States;  
4 or

5 (II) any interested entity objects to  
6 the request.

7 (iii) The President may, within the time  
8 periods specified in clause (iv), proclaim that  
9 the fabric, yarn, or fiber that is the subject of  
10 the request is added to the list in Annex 3–B  
11 of the Agreement in an unrestricted quantity,  
12 or in any restricted quantity that the President  
13 may establish, if the President has determined  
14 under clause (ii) that—

15 (I) the fabric, yarn, or fiber is not  
16 available in commercial quantities in a  
17 timely manner in Colombia and the United  
18 States; or

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

21 (iv) The time periods within which the  
22 President may issue a proclamation under  
23 clause (iii) are—

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

4 (II) not later than 44 days after the  
5 request is submitted, if the President de-  
6 termines, within 30 days after the date on  
7 which the request is submitted, that the  
8 President does not have sufficient informa-  
9 tion to make a determination under clause  
10 (ii).

11 (v) Notwithstanding section 103(a)(2), a  
12 proclamation made under clause (iii) shall take  
13 effect on the date on which the text of the proc-  
14 lamation is published in the Federal Register.

15 (vi) Not later than 6 months after pro-  
16 claiming under clause (iii) that a fabric, yarn,  
17 or fiber is added to the list in Annex 3-B of the  
18 Agreement in a restricted quantity, the Presi-  
19 dent may eliminate the restriction if the Presi-  
20 dent determines that the fabric, yarn, or fiber  
21 is not available in commercial quantities in a  
22 timely manner in Colombia and the United  
23 States.

24 (D) DEEMED APPROVAL OF REQUEST.—If,  
25 after an interested entity submits a request

1 under subparagraph (C)(i), the President does  
 2 not, within the applicable time period specified  
 3 in subparagraph (C)(iv), make a determination  
 4 under subparagraph (C)(ii) regarding the re-  
 5 quest, the fabric, yarn, or fiber that is the sub-  
 6 ject of the request shall be considered to be  
 7 added, in an unrestricted quantity, to the list in  
 8 Annex 3–B of the Agreement beginning—

9 (i) 45 days after the date on which  
 10 the request was submitted; or

11 (ii) 60 days after the date on which  
 12 the request was submitted, if the President  
 13 made a determination under subparagraph  
 14 (C)(iv)(II).

15 (E) REQUESTS TO RESTRICT OR REMOVE  
 16 FABRICS, YARNS, OR FIBERS.—(i) Subject to  
 17 clause (ii), an interested entity may request the  
 18 President to restrict the quantity of, or remove  
 19 from the list in Annex 3–B of the Agreement,  
 20 any fabric, yarn, or fiber—

21 (I) that has been added to that list in  
 22 an unrestricted quantity pursuant to para-  
 23 graph (2) or subparagraph (C)(iii) or (D)  
 24 of this paragraph; or

1 (II) with respect to which the Presi-  
2 dent has eliminated a restriction under  
3 subparagraph (C)(vi).

4 (ii) An interested entity may submit a re-  
5 quest under clause (i) at any time beginning 6  
6 months after the date of the action described in  
7 subclause (I) or (II) of that clause.

8 (iii) Not later than 30 days after the date  
9 on which a request under clause (i) is sub-  
10 mitted, the President may proclaim an action  
11 provided for under clause (i) if the President  
12 determines that the fabric, yarn, or fiber that  
13 is the subject of the request is available in com-  
14 mercial quantities in a timely manner in Colom-  
15 bia or the United States.

16 (iv) A proclamation under clause (iii) shall  
17 take effect no earlier than the date that is 6  
18 months after the date on which the text of the  
19 proclamation is published in the Federal Reg-  
20 ister.

21 (F) PROCEDURES.—The President shall  
22 establish procedures—

23 (i) governing the submission of a re-  
24 quest under subparagraphs (C) and (E);  
25 and

1                   (ii) providing an opportunity for inter-  
 2                   ested entities to submit comments and sup-  
 3                   porting evidence before the President  
 4                   makes a determination under subpara-  
 5                   graph (C) (ii) or (vi) or (E)(iii).

6 **SEC. 204. CUSTOMS USER FEES.**

7           (a) IN GENERAL.—Section 13031(b) of the Consoli-  
 8           dated Omnibus Budget Reconciliation Act of 1985 (19  
 9           U.S.C. 58c(b)) is amended by adding after paragraph  
 10          (18), the following:

11                 “(19) No fee may be charged under subsection  
 12           (a)(9) or (10) with respect to goods that qualify as  
 13           originating goods under section 203 of the United  
 14           States-Colombia Trade Promotion Agreement Imple-  
 15           mentation Act. Any service for which an exemption  
 16           from such fee is provided by reason of this para-  
 17           graph may not be funded with money contained in  
 18           the Customs User Fee Account.”.

19           (b) EFFECTIVE DATE.—The amendment made by  
 20          subsection (a) shall take effect on October 1, 2013.

21           (c) REFUND.—Any fee described in paragraph (19)  
 22          of section 13031(b) of the Consolidated Omnibus Budget  
 23          Reconciliation Act of 1985 (19 U.S.C. 58c(b)) (as added  
 24          by subsection (a)) that is paid on or after the date that  
 25          the United States-Colombia Trade Promotion Agreement



1 enters into force and before October 1, 2013, shall be re-  
 2 funded with interest if application for such refund is made  
 3 on or after October 1, 2013, and before July 1, 2014.

4 **SEC. 205. DISCLOSURE OF INCORRECT INFORMATION;**  
 5 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**  
 6 **OF PREFERENTIAL TARIFF TREATMENT.**

7 (a) DISCLOSURE OF INCORRECT INFORMATION.—  
 8 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)  
 9 is amended—

10 (1) in subsection (c)—

11 (A) by redesignating paragraph (11) as  
 12 paragraph (12); and

13 (B) by inserting after paragraph (10) the  
 14 following new paragraph:

15 “(11) PRIOR DISCLOSURE REGARDING CLAIMS  
 16 UNDER THE UNITED STATES-COLOMBIA TRADE PRO-  
 17 MOTION AGREEMENT.—An importer shall not be  
 18 subject to penalties under subsection (a) for making  
 19 an incorrect claim that a good qualifies as an origi-  
 20 nating good under section 203 of the United States-  
 21 Colombia Trade Promotion Agreement Implementa-  
 22 tion Act if the importer, in accordance with regula-  
 23 tions issued by the Secretary of the Treasury,  
 24 promptly and voluntarily makes a corrected declara-

1       tion and pays any duties owing with respect to that  
2       good.”; and

3               (2) by adding at the end the following new sub-  
4       section:

5       “(j) FALSE CERTIFICATIONS OF ORIGIN UNDER THE  
6       UNITED STATES-COLOMBIA TRADE PROMOTION AGREE-  
7       MENT.—

8               “(1) IN GENERAL.—Subject to paragraph (2),  
9       it is unlawful for any person to certify falsely, by  
10      fraud, gross negligence, or negligence, in a CTPA  
11      certification of origin (as defined in section  
12      508(i)(1)(B) of this Act) that a good exported from  
13      the United States qualifies as an originating good  
14      under the rules of origin provided for in section 203  
15      of the United States-Colombia Trade Promotion  
16      Agreement Implementation Act. The procedures and  
17      penalties of this section that apply to a violation of  
18      subsection (a) also apply to a violation of this sub-  
19      section.

20              “(2) PROMPT AND VOLUNTARY DISCLOSURE OF  
21      INCORRECT INFORMATION.—No penalty shall be im-  
22      posed under this subsection if, promptly after an ex-  
23      porter or producer that issued a CTPA certification  
24      of origin has reason to believe that such certification  
25      contains or is based on incorrect information, the ex-

1       porter or producer voluntarily provides written no-  
 2       tice of such incorrect information to every person to  
 3       whom the certification was issued.

4               “(3) EXCEPTION.—A person shall not be con-  
 5       sidered to have violated paragraph (1) if—

6                       “(A) the information was correct at the  
 7                       time it was provided in a CTPA certification of  
 8                       origin but was later rendered incorrect due to  
 9                       a change in circumstances; and

10                      “(B) the person promptly and voluntarily  
 11                      provides written notice of the change in cir-  
 12                      cumstances to all persons to whom the person  
 13                      provided the certification.”.

14       (b) DENIAL OF PREFERENTIAL TARIFF TREAT-  
 15       MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.  
 16       1514) is amended by adding at the end the following new  
 17       subsection:

18               “(j) DENIAL OF PREFERENTIAL TARIFF TREAT-  
 19       MENT UNDER THE UNITED STATES-COLOMBIA TRADE  
 20       PROMOTION AGREEMENT.—If U.S. Customs and Border  
 21       Protection or U.S. Immigration and Customs Enforce-  
 22       ment of the Department of Homeland Security finds indi-  
 23       cations of a pattern of conduct by an importer, exporter,  
 24       or producer of false or unsupported representations that  
 25       goods qualify under the rules of origin provided for in sec-

tion 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Colombia Trade Promotion Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.”.

**SEC. 206. RELIQUIDATION OF ENTRIES.**

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended in the matter preceding paragraph (1)—

(1) by striking “or”; and

(2) by striking “for which” and inserting “, or section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act for which”.

**SEC. 207. RECORDKEEPING REQUIREMENTS.**

Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsection (i) as subsection (j);

1           (2) by inserting after subsection (h) the fol-  
 2           lowing new subsection:

3           “(i) CERTIFICATIONS OF ORIGIN FOR GOODS EX-  
 4           PORTED UNDER THE UNITED STATES-COLOMBIA TRADE  
 5           PROMOTION AGREEMENT.—

6           “(1) DEFINITIONS.—In this subsection:

7           “(A) RECORDS AND SUPPORTING DOCU-  
 8           MENTS.—The term ‘records and supporting  
 9           documents’ means, with respect to an exported  
 10          good under paragraph (2), records and docu-  
 11          ments related to the origin of the good, includ-  
 12          ing—

13               “(i) the purchase, cost, and value of,  
 14               and payment for, the good;

15               “(ii) the purchase, cost, and value of,  
 16               and payment for, all materials, including  
 17               indirect materials, used in the production  
 18               of the good; and

19               “(iii) the production of the good in  
 20               the form in which it was exported.

21           “(B) CTPA CERTIFICATION OF ORIGIN.—

22           The term ‘CTPA certification of origin’ means  
 23           the certification established under article 4.15  
 24           of the United States-Colombia Trade Promotion

1 Agreement that a good qualifies as an origi-  
 2 nating good under such Agreement.

3 “(2) EXPORTS TO COLOMBIA.—Any person who  
 4 completes and issues a CTPA certification of origin  
 5 for a good exported from the United States shall  
 6 make, keep, and, pursuant to rules and regulations  
 7 promulgated by the Secretary of the Treasury,  
 8 render for examination and inspection all records  
 9 and supporting documents related to the origin of  
 10 the good (including the certification or copies there-  
 11 of).

12 “(3) RETENTION PERIOD.—The person who  
 13 issues a CTPA certification of origin shall keep the  
 14 records and supporting documents relating to that  
 15 certification of origin for a period of at least 5 years  
 16 after the date on which the certification is issued.”;  
 17 and

18 (3) in subsection (j), as so redesignated by  
 19 striking “(f), (g), or (h)” and inserting “(f), (g), (h),  
 20 or (i)”.

21 **SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE**  
 22 **OR APPAREL GOODS.**

23 (a) ACTION DURING VERIFICATION.—

24 (1) IN GENERAL.—If the Secretary of the  
 25 Treasury requests the Government of Colombia to

1       conduct a verification pursuant to article 3.2 of the  
 2       Agreement for purposes of making a determination  
 3       under paragraph (2), the President may direct the  
 4       Secretary to take appropriate action described in  
 5       subsection (b) while the verification is being con-  
 6       ducted.

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

10               (A) an exporter or producer in Colombia is  
 11               complying with applicable customs laws, regula-  
 12               tions, and procedures regarding trade in textile  
 13               or apparel goods, or

14               (B) a claim that a textile or apparel good  
 15               exported or produced by such exporter or pro-  
 16               ducer—

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

19                       (ii) is a good of Colombia,  
 20       is accurate.

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

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

1 (A) any textile or apparel good exported or  
2 produced by the person that is the subject of a  
3 verification under subsection (a)(1) regarding  
4 compliance described in subsection (a)(2)(A), if  
5 the Secretary determines that there is insuffi-  
6 cient information to support any claim for pref-  
7 erential tariff treatment that has been made  
8 with respect to any such good; or

9 (B) the textile or apparel good for which a  
10 claim of preferential tariff treatment has been  
11 made that is the subject of a verification under  
12 subsection (a)(1) regarding a claim described in  
13 subsection (a)(2)(B), if the Secretary deter-  
14 mines that there is insufficient information to  
15 support that claim;

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

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



1 (B) the textile or apparel good for which a  
2 claim of preferential tariff treatment has been  
3 made that is the subject of a verification under  
4 subsection (a)(1) regarding a claim described in  
5 subsection (a)(2)(B), if the Secretary deter-  
6 mines that a person has provided incorrect in-  
7 formation to support that claim;

8 (3) detention of any textile or apparel good ex-  
9 ported or produced by the person that is the subject  
10 of a verification under subsection (a)(1) regarding  
11 compliance described in subsection (a)(2)(A) or a  
12 claim described in subsection (a)(2)(B), if the Sec-  
13 retary determines that there is insufficient informa-  
14 tion to determine the country of origin of any such  
15 good; and

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

24 (c) ACTION ON COMPLETION OF A VERIFICATION.—  
25 On completion of a verification under subsection (a), the

1 President may direct the Secretary to take appropriate ac-  
2 tion described in subsection (d) until such time as the Sec-  
3 retary receives information sufficient to make the deter-  
4 mination under subsection (a)(2) or until such earlier date  
5 as the President may direct.

6 (d) APPROPRIATE ACTION DESCRIBED.—Appro-  
7 priate action under subsection (c) includes—

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

10 (A) any textile or apparel good exported or  
11 produced by the person that is the subject of a  
12 verification under subsection (a)(1) regarding  
13 compliance described in subsection (a)(2)(A), if  
14 the Secretary determines that there is insuffi-  
15 cient information to support, or that the person  
16 has provided incorrect information to support,  
17 any claim for preferential tariff treatment that  
18 has been made with respect to any such good;  
19 or

20 (B) the textile or apparel good for which a  
21 claim of preferential tariff treatment has been  
22 made that is the subject of a verification under  
23 subsection (a)(1) regarding a claim described in  
24 subsection (a)(2)(B), if the Secretary deter-  
25 mines that there is insufficient information to

1 support, or that a person has provided incorrect  
2 information to support, that claim; and

3 (2) denial of entry into the United States of  
4 any textile or apparel good exported or produced by  
5 the person that is the subject of a verification under  
6 subsection (a)(1) regarding compliance described in  
7 subsection (a)(2)(A) or a claim described in sub-  
8 section (a)(2)(B), if the Secretary determines that  
9 there is insufficient information to determine, or  
10 that the person has provided incorrect information  
11 as to, the country of origin of any such good.

12 (e) PUBLICATION OF NAME OF PERSON.—In accord-  
13 ance with article 3.2.6 of the Agreement, the Secretary  
14 may publish the name of any person that the Secretary  
15 has determined—

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

19 (2) has failed to demonstrate that it produces,  
20 or is capable of producing, textile or apparel goods.

21 (f) VERIFICATIONS IN THE UNITED STATES.—If the  
22 government of a country that is a party to a free trade  
23 agreement with the United States makes a request for a  
24 verification pursuant to that agreement, the Secretary  
25 may request a verification of the production of any textile

1 or apparel good in order to assist that government in de-  
 2 termining—

3 (1) whether a claim of origin under the agree-  
 4 ment for a textile or apparel good is accurate; or

5 (2) whether an exporter, producer, or other en-  
 6 terprise located in the United States involved in the  
 7 movement of textile or apparel goods from the  
 8 United States to the territory of the requesting gov-  
 9 ernment is complying with applicable customs laws,  
 10 regulations, and procedures regarding trade in tex-  
 11 tile or apparel goods.

12 **SEC. 209. REGULATIONS.**

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

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

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

17 (3) any proclamation issued under section  
 18 203(o).

19 **TITLE III—RELIEF FROM**  
 20 **IMPORTS**

21 **SEC. 301. DEFINITIONS.**

22 In this title:

23 (1) **COLOMBIAN ARTICLE.**—The term “Colom-  
 24 bian article” means an article that qualifies as an  
 25 originating good under section 203(b).

1           (2) COLOMBIAN TEXTILE OR APPAREL ARTI-  
 2           CLE.—The term “Colombian textile or apparel arti-  
 3           cle” means a textile or apparel good (as defined in  
 4           section 3(4)) that is a Colombian article.

5           **Subtitle A—Relief From Imports**  
 6           **Benefiting From the Agreement**

7           **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

8           (a) FILING OF PETITION.—A petition requesting ac-  
 9           tion under this subtitle for the purpose of adjusting to  
 10          the obligations of the United States under the Agreement  
 11          may be filed with the Commission by an entity, including  
 12          a trade association, firm, certified or recognized union, or  
 13          group of workers, that is representative of an industry.  
 14          The Commission shall transmit a copy of any petition filed  
 15          under this subsection to the United States Trade Rep-  
 16          resentative.

17          (b) INVESTIGATION AND DETERMINATION.—Upon  
 18          the filing of a petition under subsection (a), the Commis-  
 19          sion, unless subsection (d) applies, shall promptly initiate  
 20          an investigation to determine whether, as a result of the  
 21          reduction or elimination of a duty provided for under the  
 22          Agreement, a Colombian article is being imported into the  
 23          United States in such increased quantities, in absolute  
 24          terms or relative to domestic production, and under such  
 25          conditions that imports of the Colombian article constitute

1 a substantial cause of serious injury or threat thereof to  
2 the domestic industry producing an article that is like, or  
3 directly competitive with, the imported article.

4 (c) APPLICABLE PROVISIONS.—The following provi-  
5 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
6 2252) apply with respect to any investigation initiated  
7 under subsection (b):

8 (1) Paragraphs (1)(B) and (3) of subsection  
9 (b).

10 (2) Subsection (c).

11 (3) Subsection (i).

12 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No  
13 investigation may be initiated under this section with re-  
14 spect to any Colombian article if, after the date on which  
15 the Agreement enters into force, import relief has been  
16 provided with respect to that Colombian article under this  
17 subtitle.

18 **SEC. 312. COMMISSION ACTION ON PETITION.**

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

23 (b) APPLICABLE PROVISIONS.—For purposes of this  
24 subtitle, the provisions of paragraphs (1), (2), and (3) of  
25 section 330(d) of the Tariff Act of 1930 (19 U.S.C.

1 1330(d) (1), (2), and (3)) shall be applied with respect  
2 to determinations and findings made under this section  
3 as if such determinations and findings were made under  
4 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

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

7 (1) IN GENERAL.—If the determination made  
8 by the Commission under subsection (a) with respect  
9 to imports of an article is affirmative, or if the  
10 President may consider a determination of the Com-  
11 mission to be an affirmative determination as pro-  
12 vided for under paragraph (1) of section 330(d) of  
13 the Tariff Act of 1930 (19 U.S.C. 1330(d)), the  
14 Commission shall find, and recommend to the Presi-  
15 dent in the report required under subsection (d), the  
16 amount of import relief that is necessary to remedy  
17 or prevent the injury found by the Commission in  
18 the determination and to facilitate the efforts of the  
19 domestic industry to make a positive adjustment to  
20 import competition.

21 (2) LIMITATION ON RELIEF.—The import relief  
22 recommended by the Commission under this sub-  
23 section shall be limited to the relief described in sec-  
24 tion 313(c).

1           (3) VOTING; SEPARATE VIEWS.—Only those  
2       members of the Commission who voted in the af-  
3       firmative under subsection (a) are eligible to vote on  
4       the proposed action to remedy or prevent the injury  
5       found by the Commission. Members of the Commis-  
6       sion who did not vote in the affirmative may submit,  
7       in the report required under subsection (d), separate  
8       views regarding what action, if any, should be taken  
9       to remedy or prevent the injury.

10       (d) REPORT TO PRESIDENT.—Not later than the  
11      date that is 30 days after the date on which a determina-  
12      tion is made under subsection (a) with respect to an inves-  
13      tigation, the Commission shall submit to the President a  
14      report that includes—

15           (1) the determination made under subsection  
16       (a) and an explanation of the basis for the deter-  
17       mination;

18           (2) if the determination under subsection (a) is  
19       affirmative, any findings and recommendations for  
20       import relief made under subsection (c) and an ex-  
21       planation of the basis for each recommendation; and

22           (3) any dissenting or separate views by mem-  
23       bers of the Commission regarding the determination  
24       referred to in paragraph (1) and any finding or rec-  
25       ommendation referred to in paragraph (2).



1       (e) PUBLIC NOTICE.—Upon submitting a report to  
2 the President under subsection (d), the Commission shall  
3 promptly make public the report (with the exception of  
4 information which the Commission determines to be con-  
5 fidential) and shall publish a summary of the report in  
6 the Federal Register.

7 **SEC. 313. PROVISION OF RELIEF.**

8       (a) IN GENERAL.—Not later than the date that is  
9 30 days after the date on which the President receives the  
10 report of the Commission in which the Commission’s de-  
11 termination under section 312(a) is affirmative, or which  
12 contains a determination under section 312(a) that the  
13 President considers to be affirmative under paragraph (1)  
14 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.  
15 1330(d)(1)), the President, subject to subsection (b), shall  
16 provide relief from imports of the article that is the subject  
17 of such determination to the extent that the President de-  
18 termines necessary to remedy or prevent the injury found  
19 by the Commission and to facilitate the efforts of the do-  
20 mestic industry to make a positive adjustment to import  
21 competition.

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

1 (c) NATURE OF RELIEF.—

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

5 (A) The suspension of any further reduc-  
6 tion provided for under Annex 2.3 of the Agree-  
7 ment in the duty imposed on the article.

8 (B) An increase in the rate of duty im-  
9 posed on the article to a level that does not ex-  
10 ceed the lesser of—

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

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

18 (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
19 riod for which import relief is provided under this  
20 section is greater than 1 year, the President shall  
21 provide for the progressive liberalization (described  
22 in article 8.2.2 of the Agreement) of such relief at  
23 regular intervals during the period of its application.

24 (d) PERIOD OF RELIEF.—

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

5           (2) EXTENSION.—

6                 (A) IN GENERAL.—Subject to subpara-  
7                 graph (C), the President, after receiving a de-  
8                 termination from the Commission under sub-  
9                 paragraph (B) that is affirmative, or which the  
10                President considers to be affirmative under  
11                paragraph (1) of section 330(d) of the Tariff  
12                Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-  
13                tend the effective period of any import relief  
14                provided under this section by up to 2 years, if  
15                the President determines that—

16                       (i) the import relief continues to be  
17                       necessary to remedy or prevent serious in-  
18                       jury and to facilitate adjustment by the do-  
19                       mestic industry to import competition; and

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

23           (B) ACTION BY COMMISSION.—

24                 (i) INVESTIGATION.—Upon a petition  
25                 on behalf of the industry concerned that is

1 filed with the Commission not earlier than  
2 the date that is 9 months, and not later  
3 than the date that is 6 months, before the  
4 date on which any action taken under sub-  
5 section (a) is to terminate, the Commission  
6 shall conduct an investigation to determine  
7 whether action under this section continues  
8 to be necessary to remedy or prevent seri-  
9 ous injury and whether there is evidence  
10 that the industry is making a positive ad-  
11 justment to import competition.

12 (ii) NOTICE AND HEARING.—The  
13 Commission shall publish notice of the  
14 commencement of any proceeding under  
15 this subparagraph in the Federal Register  
16 and shall, within a reasonable time there-  
17 after, hold a public hearing at which the  
18 Commission shall afford interested parties  
19 and consumers an opportunity to be  
20 present, to present evidence, and to re-  
21 spond to the presentations of other parties  
22 and consumers, and otherwise to be heard.

23 (iii) REPORT.—The Commission shall  
24 submit to the President a report on its in-  
25 vestigation and determination under this

1                   subparagraph not later than 60 days be-  
2                   fore the action under subsection (a) is to  
3                   terminate, unless the President specifies a  
4                   different date.

5                   (C) PERIOD OF IMPORT RELIEF.—Any im-  
6                   port relief provided under this section, including  
7                   any extensions thereof, may not, in the aggre-  
8                   gate, be in effect for more than 4 years.

9                   (e) RATE AFTER TERMINATION OF IMPORT RE-  
10                  LIEF.—When import relief under this section is termi-  
11                  nated with respect to an article—

12                  (1) the rate of duty on that article after such  
13                  termination and on or before December 31 of the  
14                  year in which such termination occurs shall be the  
15                  rate that, according to the Schedule of the United  
16                  States to Annex 2.3 of the Agreement, would have  
17                  been in effect 1 year after the provision of relief  
18                  under subsection (a); and

19                  (2) the rate of duty for that article after De-  
20                  cember 31 of the year in which such termination oc-  
21                  curs shall be, at the discretion of the President, ei-  
22                  ther—

23                         (A) the applicable rate of duty for that ar-  
24                         ticle set forth in the Schedule of the United  
25                         States to Annex 2.3 of the Agreement; or

1 (B) the rate of duty resulting from the  
 2 elimination of the tariff in equal annual stages  
 3 ending on the date set forth in the Schedule of  
 4 the United States to Annex 2.3 of the Agree-  
 5 ment for the elimination of the tariff.

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

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

10 (A) subtitle B; or

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

13 (2) any article on which an additional duty as-  
 14 sessed under section 202(b) is in effect.

15 **SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

16 (a) GENERAL RULE.—Subject to subsection (b), no  
 17 import relief may be provided under this subtitle after the  
 18 date that is 10 years after the date on which the Agree-  
 19 ment enters into force.

20 (b) EXCEPTION.—If an article for which relief is pro-  
 21 vided under this subtitle is an article for which the period  
 22 for tariff elimination, set forth in the Schedule of the  
 23 United States to Annex 2.3 of the Agreement, is greater  
 24 than 10 years, no relief under this subtitle may be pro-

1 vided for that article after the date on which that period  
2 ends.

3 **SEC. 315. COMPENSATION AUTHORITY.**

4 For purposes of section 123 of the Trade Act of 1974  
5 (19 U.S.C. 2133), any import relief provided by the Presi-  
6 dent under section 313 shall be treated as action taken  
7 under chapter 1 of title II of such Act (19 U.S.C. 2251  
8 et seq.).

9 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

10 Section 202(a)(8) of the Trade Act of 1974 (19  
11 U.S.C. 2252(a)(8)) is amended in the first sentence—

12 (1) by striking “and”; and

13 (2) by inserting before the period at the end “,  
14 and title III of the United States-Colombia Trade  
15 Promotion Agreement Implementation Act”.

16 **Subtitle B—Textile and Apparel**  
17 **Safeguard Measures**

18 **SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

19 (a) IN GENERAL.—A request for action under this  
20 subtitle for the purpose of adjusting to the obligations of  
21 the United States under the Agreement may be filed with  
22 the President by an interested party. Upon the filing of  
23 a request, the President shall review the request to deter-  
24 mine, from information presented in the request, whether  
25 to commence consideration of the request.

1 (b) PUBLICATION OF REQUEST.—If the President de-  
 2 termines that the request under subsection (a) provides  
 3 the information necessary for the request to be considered,  
 4 the President shall publish in the Federal Register a no-  
 5 tice of commencement of consideration of the request, and  
 6 notice seeking public comments regarding the request. The  
 7 notice shall include a summary of the request and the  
 8 dates by which comments and rebuttals must be received.

9 **SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

10 (a) DETERMINATION.—

11 (1) IN GENERAL.—If a positive determination is  
 12 made under section 321(b), the President shall de-  
 13 termine whether, as a result of the elimination of a  
 14 duty under the Agreement, a Colombian textile or  
 15 apparel article is being imported into the United  
 16 States in such increased quantities, in absolute  
 17 terms or relative to the domestic market for that ar-  
 18 ticle, and under such conditions as to cause serious  
 19 damage, or actual threat thereof, to a domestic in-  
 20 dustry producing an article that is like, or directly  
 21 competitive with, the imported article.

22 (2) SERIOUS DAMAGE.—In making a deter-  
 23 mination under paragraph (1), the President—

24 (A) shall examine the effect of increased  
 25 imports on the domestic industry, as reflected



1 in changes in such relevant economic factors as  
2 output, productivity, utilization of capacity, in-  
3 ventories, market share, exports, wages, em-  
4 ployment, domestic prices, profits and losses,  
5 and investment, no one of which is necessarily  
6 decisive; and

7 (B) shall not consider changes in consumer  
8 preference or changes in technology in the  
9 United States as factors supporting a deter-  
10 mination of serious damage or actual threat  
11 thereof.

12 (b) PROVISION OF RELIEF.—

13 (1) IN GENERAL.—If a determination under  
14 subsection (a) is affirmative, the President may pro-  
15 vide relief from imports of the article that is the  
16 subject of such determination, as provided in para-  
17 graph (2), to the extent that the President deter-  
18 mines necessary to remedy or prevent the serious  
19 damage and to facilitate adjustment by the domestic  
20 industry.

21 (2) NATURE OF RELIEF.—The relief that the  
22 President is authorized to provide under this sub-  
23 section with respect to imports of an article is an in-  
24 crease in the rate of duty imposed on the article to  
25 a level that does not exceed the lesser of—

1 (A) the column 1 general rate of duty im-  
 2 posed under the HTS on like articles at the  
 3 time the import relief is provided; or

4 (B) the column 1 general rate of duty im-  
 5 posed under the HTS on like articles on the  
 6 day before the date on which the Agreement en-  
 7 ters into force.

8 **SEC. 323. PERIOD OF RELIEF.**

9 (a) IN GENERAL.—Subject to subsection (b), the im-  
 10 port relief that the President provides under section  
 11 322(b) may not be in effect for more than 2 years.

12 (b) EXTENSION.—

13 (1) IN GENERAL.—Subject to paragraph (2),  
 14 the President may extend the effective period of any  
 15 import relief provided under this subtitle for a pe-  
 16 riod of not more than 1 year, if the President deter-  
 17 mines that—

18 (A) the import relief continues to be nec-  
 19 essary to remedy or prevent serious damage  
 20 and to facilitate adjustment by the domestic in-  
 21 dustry to import competition; and

22 (B) there is evidence that the industry is  
 23 making a positive adjustment to import com-  
 24 petition.

1           (2) LIMITATION.—Any relief provided under  
 2       this subtitle, including any extensions thereof, may  
 3       not, in the aggregate, be in effect for more than 3  
 4       years.

5 **SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

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

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

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

12               (A) subtitle A; or

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

15 **SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

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

20 **SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

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

1 **SEC. 327. COMPENSATION AUTHORITY.**

2 For purposes of section 123 of the Trade Act of 1974  
 3 (19 U.S.C. 2133), any import relief provided by the Presi-  
 4 dent under this subtitle shall be treated as action taken  
 5 under chapter 1 of title II of such Act (19 U.S.C. 2251  
 6 et seq.).

7 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

8 The President may not release information received  
 9 in connection with an investigation or determination under  
 10 this subtitle which the President considers to be confiden-  
 11 tial business information unless the party submitting the  
 12 confidential business information had notice, at the time  
 13 of submission, that such information would be released by  
 14 the President, or such party subsequently consents to the  
 15 release of the information. To the extent a party submits  
 16 confidential business information, the party shall also pro-  
 17 vide a nonconfidential version of the information in which  
 18 the confidential business information is summarized or, if  
 19 necessary, deleted.

20 **Subtitle C—Cases Under Title II of**  
 21 **the Trade Act of 1974**

22 **SEC. 331. FINDINGS AND ACTION ON GOODS OF COLOMBIA.**

23 (a) EFFECT OF IMPORTS.—If, in any investigation  
 24 initiated under chapter 1 of title II of the Trade Act of  
 25 1974 (19 U.S.C. 2251 et seq.), the Commission makes an  
 26 affirmative determination (or a determination which the

1 President may treat as an affirmative determination under  
 2 such chapter by reason of section 330(d) of the Tariff Act  
 3 of 1930), the Commission shall also find (and report to  
 4 the President at the time such injury determination is sub-  
 5 mitted to the President) whether imports of the article of  
 6 Colombia that qualify as originating goods under section  
 7 203(b) are a substantial cause of serious injury or threat  
 8 thereof.

9 (b) PRESIDENTIAL DETERMINATION REGARDING IM-  
 10 PORTS OF COLOMBIA.—In determining the nature and ex-  
 11 tent of action to be taken under chapter 1 of title II of  
 12 the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Presi-  
 13 dent may exclude from the action goods of Colombia with  
 14 respect to which the Commission has made a negative  
 15 finding under subsection (a).

## 16 **TITLE IV—PROCUREMENT**

### 17 **SEC. 401. ELIGIBLE PRODUCTS.**

18 Section 308(4)(A) of the Trade Agreements Act of  
 19 1979 (19 U.S.C. 2518(4)(A)) is amended—

20 (1) by striking “or” at the end of clause (vi);

21 (2) by striking the period at the end of clause

22 (vii) and inserting “; or”; and

23 (3) by adding at the end the following new

24 clause:

“(viii) a party to the United States-Colombia Trade Promotion Agreement, a product or service of that country or instrumentality which is covered under that agreement for procurement by the United States.”.

## **TITLE V—OFFSETS**

### **SEC. 501. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) shall be applied by extending by 155 days the date in effect on the date of the enactment of this Act after which fees may not be charged under paragraphs (9) and (10) of subsection (a) of such section 13031.

(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) shall be applied by extending by 155 days the date in effect on the date of the enactment of this Act after which fees may not be charged under paragraphs (1) through (8) of subsection (a) of such section 13031.

1 **SEC. 502. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
2 **TAXES.**

3 (a) CORPORATE ESTIMATED TAX DUE IN 2012.—

4 The percentage under subparagraph (B) of section 401(1)  
5 of the Tax Increase Prevention and Reconciliation Act of  
6 2005 (Public Law 109–222; 26 U.S.C. 6655 note) in ef-  
7 fect on the date of the enactment of this Act is increased  
8 by 1 percentage point.

9 (b) CORPORATE ESTIMATED TAX DUE IN 2013.—

10 The percentage under subparagraph (C) of section 401(1)  
11 of the Tax Increase Prevention and Reconciliation Act of  
12 2005 (Public Law 109–222; 26 U.S.C. 6655 note) in ef-  
13 fect on the date of the enactment of this Act is increased  
14 by 2 percentage points.

○