

Calendar No. 189

112TH CONGRESS
1ST SESSION**S. 1641**

To implement the United States–Colombia Trade Promotion Agreement.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2011

Mr. BAUCUS (for himself, Mr. HATCH, and Mr. MCCONNELL) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

OCTOBER 11, 2011

Reported by Mr. BAUCUS, without amendment

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”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 Benefitting 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 Colombian articles.

TITLE IV—PROCUREMENT

Sec. 401. Eligible products.

TITLE V—EXTENSION OF ANDEAN TRADE PREFERENCE ACT

Sec. 501. Extension of Andean Trade Preference Act.

TITLE VI—OFFSETS

Sec. 601. Elimination of certain NAFTA customs fees exemption.

Sec. 602. Extension of customs user fees.

Sec. 603. 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.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) AGREEMENT.—The term “Agreement”
4 means the United States–Colombia Trade Promotion
5 Agreement approved by Congress under section
6 101(a)(1).

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

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

12 (4) TEXTILE OR APPAREL GOOD.—The term
13 “textile or apparel good” means a good listed in the
14 Annex to the Agreement on Textiles and Clothing
15 referred to in section 101(d)(4) of the Uruguay
16 Round Agreements Act (19 U.S.C. 3511(d)(4)),
17 other than a good listed in Annex 3-C of the Agree-
18 ment.

19 **TITLE I—APPROVAL OF, AND**
20 **GENERAL PROVISIONS RE-**
21 **LATING TO, THE AGREEMENT**

22 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**
23 **AGREEMENT.**

24 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
25 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of
26 the Bipartisan Trade Promotion Authority Act of 2002

1 (19 U.S.C. 3805) and section 151 of the Trade Act of
2 1974 (19 U.S.C. 2191), Congress approves—

3 (1) the United States–Colombia Trade Pro-
4 motion Agreement entered into on November 22,
5 2006, with the Government of Colombia, as amend-
6 ed on June 28, 2007, by the United States and Co-
7 lombia, and submitted to Congress on October 3,
8 2011; and

9 (2) the statement of administrative action pro-
10 posed to implement the Agreement that was sub-
11 mitted to Congress on October 3, 2011.

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

21 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**
22 **STATES AND STATE LAW.**

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

1 (1) UNITED STATES LAW TO PREVAIL IN CON-
2 FLICT.—No provision of the Agreement, nor the ap-
3 plication of any such provision to any person or cir-
4 cumstance, which is inconsistent with any law of the
5 United States shall have effect.

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

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

10 (B) to limit any authority conferred under
11 any law of the United States,
12 unless specifically provided for in this Act.

13 (b) RELATIONSHIP OF AGREEMENT TO STATE
14 LAW.—

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

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

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

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

3 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-
4 VATE REMEDIES.—No person other than the United
5 States—

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

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

15 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**
16 **ENTRY INTO FORCE AND INITIAL REGULA-**
17 **TIONS.**

18 (a) IMPLEMENTING ACTIONS.—

19 (1) PROCLAMATION AUTHORITY.—After the
20 date of the enactment of this Act—

21 (A) the President may proclaim such ac-
22 tions, and

23 (B) other appropriate officers of the
24 United States Government may issue such reg-
25 ulations,

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

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

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

22 (b) INITIAL REGULATIONS.—Initial regulations nec-
23 essary or appropriate to carry out the actions required by
24 or authorized under this Act or proposed in the statement
25 of administrative action submitted under section

1 101(a)(2) to implement the Agreement shall, to the max-
2 imum extent feasible, be issued within 1 year after the
3 date on which the Agreement enters into force. In the case
4 of any implementing action that takes effect on a date
5 after the date on which the Agreement enters into force,
6 initial regulations to carry out that action shall, to the
7 maximum extent feasible, be issued within 1 year after
8 such effective date.

9 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**
10 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**
11 **TIONS.**

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

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

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

21 (B) the Commission;

22 (2) the President has submitted to the Com-
23 mittee on Finance of the Senate and the Committee
24 on Ways and Means of the House of Representatives
25 a report that sets forth—

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

3 (B) the advice obtained under paragraph
4 (1);

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

9 (4) the President has consulted with the com-
10 mittees referred to in paragraph (2) regarding the
11 proposed action during the period referred to in
12 paragraph (3).

13 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**
14 **CEEDINGS.**

15 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—

16 The President is authorized to establish or designate with-
17 in the Department of Commerce an office that shall be
18 responsible for providing administrative assistance to pan-
19 els established under chapter 21 of the Agreement. The
20 office shall not be considered to be an agency for purposes
21 of section 552 of title 5, United States Code.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated for each fiscal year after
24 fiscal year 2011 to the Department of Commerce up to
25 \$262,500 for the establishment and operations of the of-

1 fice established or designated under subsection (a) and for
 2 the payment of the United States share of the expenses
 3 of panels established under chapter 21 of the Agreement.

4 **SEC. 106. ARBITRATION OF CLAIMS.**

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

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

12 (a) EFFECTIVE DATES.—Except as provided in sub-
 13 section (b) and title V, this Act and the amendments made
 14 by this Act take effect on the date on which the Agreement
 15 enters into force.

16 (b) EXCEPTIONS.—

17 (1) IN GENERAL.—Sections 1 through 3, this
 18 title, and title VI take effect on the date of the en-
 19 actment of this Act.

20 (2) CERTAIN AMENDATORY PROVISIONS.—The
 21 amendments made by sections 204, 205, 207, and
 22 401 of this Act take effect on the date of the enact-
 23 ment of this Act and apply with respect to Colombia
 24 on the date on which the Agreement enters into
 25 force.

1 (c) TERMINATION OF THE AGREEMENT.—On the
2 date on which the Agreement terminates, this Act (other
3 than this subsection and titles V and VI) and the amend-
4 ments made by this Act (other than the amendments made
5 by titles V and VI) shall cease to have effect.

6 **TITLE II—CUSTOMS PROVISIONS**

7 **SEC. 201. TARIFF MODIFICATIONS.**

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

10 (1) PROCLAMATION AUTHORITY.—The Presi-
11 dent may proclaim—

12 (A) such modifications or continuation of
13 any duty,

14 (B) such continuation of duty-free or ex-
15 cise treatment, or

16 (C) such additional duties,

17 as the President determines to be necessary or ap-
18 propriate to carry out or apply articles 2.3, 2.5, 2.6,
19 and 3.3.13, and Annex 2.3, of the Agreement.

20 (2) EFFECT ON GSP STATUS.—Notwithstanding
21 section 502(a)(1) of the Trade Act of 1974 (19
22 U.S.C. 2462(a)(1)), the President shall, on the date
23 on which the Agreement enters into force, terminate
24 the designation of Colombia as a beneficiary devel-

1 opening country for purposes of title V of the Trade
2 Act of 1974 (19 U.S.C. 2461 et seq.).

3 (3) EFFECT ON ATPA STATUS.—Notwith-
4 standing section 203(a)(1) of the Andean Trade
5 Preference Act (19 U.S.C. 3202(a)(1)), the Presi-
6 dent shall, on the date on which the Agreement en-
7 ters into force, terminate the designation of Colom-
8 bia as a beneficiary country for purposes of that
9 Act.

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

13 (1) such modifications or continuation of any
14 duty,

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

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

21 (4) such additional duties,

22 as the President determines to be necessary or appropriate
23 to maintain the general level of reciprocal and mutually
24 advantageous concessions with respect to Colombia pro-
25 vided for by the Agreement.

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

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

15 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**
 16 **TURAL GOODS.**

17 (a) DEFINITIONS.—In this section:

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

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

24 (B) the column 1 general rate of duty that
 25 would, on the day before the date on which the

1 Agreement enters into force, apply to a good
2 classifiable in the same 8-digit subheading of
3 the HTS as the safeguard good; or

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

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

14 (3) SAFEGUARD GOOD.—The term “safeguard
15 good” means a good—

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

18 (B) that qualifies as an originating good
19 under section 203, except that operations per-
20 formed in or material obtained from the United
21 States shall be considered as if the operations
22 were performed in, or the material was obtained
23 from, a country that is not a party to the
24 Agreement; and

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

3 (4) YEAR 1 OF THE AGREEMENT.—The term
4 “year 1 of the Agreement” means the period begin-
5 ning on the date, in a calendar year, on which the
6 Agreement enters into force and ending on Decem-
7 ber 31 of that calendar year.

8 (5) YEARS OTHER THAN YEAR 1 OF THE
9 AGREEMENT.—Any reference to a year of the Agree-
10 ment subsequent to year 1 of the Agreement shall
11 be deemed to be a reference to the corresponding
12 calendar year in which the Agreement is in force.

13 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

14 (1) IN GENERAL.—In addition to any duty pro-
15 claimed under subsection (a) or (b) of section 201,
16 the Secretary of the Treasury shall assess a duty, in
17 the amount determined under paragraph (2), on a
18 safeguard good imported into the United States in
19 a calendar year if the Secretary determines that,
20 prior to such importation, the total volume of that
21 safeguard good that is imported into the United
22 States in that calendar year exceeds 140 percent of
23 the volume that is provided for that safeguard good
24 in the corresponding year in the applicable table
25 contained in Appendix I of the General Notes to the

1 Schedule of the United States to Annex 2.3 of the
2 Agreement. For purposes of this subsection, year 1
3 in the table means year 1 of the Agreement.

4 (2) CALCULATION OF ADDITIONAL DUTY.—The
5 additional duty on a safeguard good under this sub-
6 section shall be—

7 (A) in year 1 of the Agreement through
8 year 4 of the Agreement, an amount equal to
9 100 percent of the excess of the applicable NTR
10 (MFN) rate of duty over the schedule rate of
11 duty;

12 (B) in year 5 of the Agreement through
13 year 7 of the Agreement, an amount equal to
14 75 percent of the excess of the applicable NTR
15 (MFN) rate of duty over the schedule rate of
16 duty; and

17 (C) in year 8 of the Agreement through
18 year 9 of the Agreement, an amount equal to
19 50 percent of the excess of the applicable NTR
20 (MFN) rate of duty over the schedule rate of
21 duty.

22 (3) NOTICE.—Not later than 60 days after the
23 date on which the Secretary of the Treasury first as-
24 sesses an additional duty in a calendar year on a
25 good under this subsection, the Secretary shall no-

1 tify the Government of Colombia in writing of such
2 action and shall provide to that Government data
3 supporting the assessment of the additional duty.

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

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

8 (2) chapter 1 of title II of the Trade Act of
9 1974 (19 U.S.C. 2251 et seq.).

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

15 **SEC. 203. RULES OF ORIGIN.**

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

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

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

24 (3) COST OR VALUE.—Any cost or value re-
25 ferred to in this section shall be recorded and main-

1 tained in accordance with the generally accepted ac-
2 counting principles applicable in the territory of the
3 country in which the good is produced (whether Co-
4 lombia or the United States).

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

10 (1) the good is a good wholly obtained or pro-
11 duced entirely in the territory of Colombia, the
12 United States, or both;

13 (2) the good—

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

16 (i) each of the nonoriginating mate-
17 rials used in the production of the good
18 undergoes an applicable change in tariff
19 classification specified in Annex 3-A or
20 Annex 4.1 of the Agreement; or

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

1 (B) satisfies all other applicable require-
2 ments of this section; or

3 (3) the good is produced entirely in the terri-
4 tory of Colombia, the United States, or both, exclu-
5 sively from materials described in paragraph (1) or
6 (2).

7 (c) REGIONAL VALUE-CONTENT.—

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

16 (2) BUILD-DOWN METHOD.—

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

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

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

2 (i) RVC.—The term “RVC” means
3 the regional value-content of the good, ex-
4 pressed as a percentage.

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

7 (iii) VNM.—The term “VNM” means
8 the value of nonoriginating materials that
9 are acquired and used by the producer in
10 the production of the good, but does not
11 include the value of a material that is self-
12 produced.

13 (3) BUILD-UP METHOD.—

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

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

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

18 (i) RVC.—The term “RVC” means
19 the regional value-content of the good, ex-
20 pressed as a percentage.

21 (ii) AV.—The term “AV” means the
22 adjusted value of the good.

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

5 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE
 6 GOODS.—

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

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

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

14 (i) AUTOMOTIVE GOOD.—The term
 15 “automotive good” means a good provided
 16 for in any of subheadings 8407.31 through
 17 8407.34, subheading 8408.20, heading
 18 8409, or any of headings 8701 through
 19 8708.

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

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

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

7 (C) MOTOR VEHICLES.—

8 (i) BASIS OF CALCULATION.—For
9 purposes of determining the regional value-
10 content under subparagraph (A) for an
11 automotive good that is a motor vehicle
12 provided for in any of headings 8701
13 through 8705, an importer, exporter, or
14 producer may average the amounts cal-
15 culated under the net cost formula con-
16 tained in subparagraph (A), over the pro-
17 ducer’s fiscal year—

18 (I) with respect to all motor vehi-
19 cles in any one of the categories de-
20 scribed in clause (ii); or

21 (II) with respect to all motor ve-
22 hicles in any such category that are
23 exported to the territory of the United
24 States or Colombia.

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

3 (I) is the same model line of
4 motor vehicles, is in the same class of
5 motor vehicles, and is produced in the
6 same plant in the territory of Colom-
7 bia or the United States, as the good
8 described in clause (i) for which re-
9 gional value-content is being cal-
10 culated;

11 (II) is the same class of motor
12 vehicles, and is produced in the same
13 plant in the territory of Colombia or
14 the United States, as the good de-
15 scribed in clause (i) for which regional
16 value-content is being calculated; or

17 (III) is the same model line of
18 motor vehicles produced in the terri-
19 tory of Colombia or the United States
20 as the good described in clause (i) for
21 which regional value-content is being
22 calculated.

23 (D) OTHER AUTOMOTIVE GOODS.—For
24 purposes of determining the regional value-con-
25 tent under subparagraph (A) for automotive

1 materials provided for in any of subheadings
2 8407.31 through 8407.34, in subheading
3 8408.20, or in heading 8409, 8706, 8707, or
4 8708, that are produced in the same plant, an
5 importer, exporter, or producer may—

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

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

12 (II) any quarter or month, or

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

15 if the goods were produced during the fis-
16 cal year, quarter, or month that is the
17 basis for the calculation;

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

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

1 (E) CALCULATING NET COST.—The im-
2 porter, exporter, or producer of an automotive
3 good shall, consistent with the provisions re-
4 garding allocation of costs provided for in gen-
5 erally accepted accounting principles, determine
6 the net cost of the automotive good under sub-
7 paragraph (B) by—

8 (i) calculating the total cost incurred
9 with respect to all goods produced by the
10 producer of the automotive good, sub-
11 tracting any sales promotion, marketing,
12 and after-sales service costs, royalties,
13 shipping and packing costs, and nonallow-
14 able interest costs that are included in the
15 total cost of all such goods, and then rea-
16 sonably allocating the resulting net cost of
17 those goods to the automotive good;

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

1 portion of the total cost allocated to the
2 automotive good; or

3 (iii) reasonably allocating each cost
4 that forms part of the total cost incurred
5 with respect to the automotive good so that
6 the aggregate of these costs does not in-
7 clude any sales promotion, marketing, and
8 after-sales service costs, royalties, shipping
9 and packing costs, or nonallowable interest
10 costs.

11 (d) VALUE OF MATERIALS.—

12 (1) IN GENERAL.—For the purpose of calcu-
13 lating the regional value-content of a good under
14 subsection (c), and for purposes of applying the de
15 minimis rules under subsection (f), the value of a
16 material is—

17 (A) in the case of a material that is im-
18 ported by the producer of the good, the ad-
19 justed value of the material;

20 (B) in the case of a material acquired in
21 the territory in which the good is produced, the
22 value, determined in accordance with Articles 1
23 through 8, Article 15, and the corresponding in-
24 terpretive notes, of the Agreement on Imple-
25 mentation of Article VII of the General Agree-

1 ment on Tariffs and Trade 1994 referred to in
2 section 101(d)(8) of the Uruguay Round Agree-
3 ments Act (19 U.S.C. 3511(d)(8)), as set forth
4 in regulations promulgated by the Secretary of
5 the Treasury providing for the application of
6 such Articles in the absence of an importation
7 by the producer; or

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

10 (i) all expenses incurred in the pro-
11 duction of the material, including general
12 expenses; and

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

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

18 (A) ORIGINATING MATERIAL.—The fol-
19 lowing expenses, if not included in the value of
20 an originating material calculated under para-
21 graph (1), may be added to the value of the
22 originating material:

23 (i) The costs of freight, insurance,
24 packing, and all other costs incurred in
25 transporting the material within or be-

1 tween the territory of Colombia, the United
2 States, or both, to the location of the pro-
3 ducer.

4 (ii) Duties, taxes, and customs broker-
5 age fees on the material paid in the terri-
6 tory of Colombia, the United States, or
7 both, other than duties or taxes that are
8 waived, refunded, refundable, or otherwise
9 recoverable, including credit against duty
10 or tax paid or payable.

11 (iii) The cost of waste and spoilage re-
12 sulting from the use of the material in the
13 production of the good, less the value of
14 renewable scrap or byproducts.

15 (B) NONORIGINATING MATERIAL.—The
16 following expenses, if included in the value of a
17 nonoriginating material calculated under para-
18 graph (1), may be deducted from the value of
19 the nonoriginating material:

20 (i) The costs of freight, insurance,
21 packing, and all other costs incurred in
22 transporting the material within or be-
23 tween the territory of Colombia, the United
24 States, or both, to the location of the pro-
25 ducer.

1 (ii) Duties, taxes, and customs broker-
2 age fees on the material paid in the terri-
3 tory of Colombia, the United States, or
4 both, other than duties or taxes that are
5 waived, refunded, refundable, or otherwise
6 recoverable, including credit against duty
7 or tax paid or payable.

8 (iii) The cost of waste and spoilage re-
9 sulting from the use of the material in the
10 production of the good, less the value of
11 renewable scrap or byproducts.

12 (iv) The cost of originating materials
13 used in the production of the nonorigi-
14 nating material in the territory of Colom-
15 bia, the United States, or both.

16 (e) ACCUMULATION.—

17 (1) ORIGINATING MATERIALS USED IN PRODUC-
18 TION OF GOODS OF THE OTHER COUNTRY.—Origi-
19 nating materials from the territory of Colombia or
20 the United States that are used in the production of
21 a good in the territory of the other country shall be
22 considered to originate in the territory of such other
23 country.

24 (2) MULTIPLE PRODUCERS.—A good that is
25 produced in the territory of Colombia, the United

1 States, or both, by 1 or more producers, is an origi-
2 nating good if the good satisfies the requirements of
3 subsection (b) and all other applicable requirements
4 of this section.

5 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
6 TERIALS.—

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

11 (A)(i) the value of all nonoriginating mate-
12 rials that—

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

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

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

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

22 (iii) the value of such nonoriginating mate-
23 rials is included in the value of nonoriginating
24 materials for any applicable regional value-con-
25 tent requirement for the good; or

1 (B) the good meets the requirements set
2 forth in paragraph 2 of Annex 4.6 of the Agree-
3 ment.

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

6 (A) A nonoriginating material provided for
7 in chapter 4, or a nonoriginating dairy prepara-
8 tion containing over 10 percent by weight of
9 milk solids provided for in subheading 1901.90
10 or 2106.90, that is used in the production of a
11 good provided for in chapter 4.

12 (B) A nonoriginating material provided for
13 in chapter 4, or a nonoriginating dairy prepara-
14 tion containing over 10 percent by weight of
15 milk solids provided for in subheading 1901.90,
16 that is used in the production of any of the fol-
17 lowing goods:

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

21 (ii) Mixes and doughs, containing over
22 25 percent by weight of butterfat, not put
23 up for retail sale, provided for in sub-
24 heading 1901.20.

1 (iii) Dairy preparations containing
2 over 10 percent by weight of milk solids
3 provided for in subheading 1901.90 or
4 2106.90.

5 (iv) Goods provided for in heading
6 2105.

7 (v) Beverages containing milk pro-
8 vided for in subheading 2202.90.

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

12 (C) A nonoriginating material provided for
13 in heading 0805, or any of subheadings
14 2009.11 through 2009.39, that is used in the
15 production of a good provided for in any of sub-
16 headings 2009.11 through 2009.39, or in fruit
17 or vegetable juice of any single fruit or vege-
18 table, fortified with minerals or vitamins, con-
19 centrated or unconcentrated, provided for in
20 subheading 2106.90 or 2202.90.

21 (D) A nonoriginating material provided for
22 in heading 0901 or 2101 that is used in the
23 production of a good provided for in heading
24 0901 or 2101.

1 (E) A nonoriginating material provided for
2 in chapter 15 that is used in the production of
3 a good provided for in any of headings 1501
4 through 1508, or any of headings 1511 through
5 1515.

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

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

13 (H) Except as provided in subparagraphs
14 (A) through (G) and Annex 4.1 of the Agree-
15 ment, a nonoriginating material used in the
16 production of a good provided for in any of
17 chapters 1 through 24, unless the nonorigi-
18 nating material is provided for in a different
19 subheading than the good for which origin is
20 being determined under this section.

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

23 (3) TEXTILE OR APPAREL GOODS.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), a textile or apparel good

1 that is not an originating good because certain
2 fibers or yarns used in the production of the
3 component of the good that determines the tariff
4 classification of the good do not undergo an
5 applicable change in tariff classification, set
6 forth in Annex 3-A of the Agreement, shall be
7 considered to be an originating good if—

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

12 (ii) the yarns are those described in
13 section 204(b)(3)(B)(vi)(IV) of the Andean
14 Trade Preference Act (19 U.S.C.
15 3203(b)(3)(B)(vi)(IV)) (as in effect on
16 February 12, 2011).

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

1 (C) YARN, FABRIC, OR FIBER.—For pur-
 2 poses of this paragraph, in the case of a good
 3 that is a yarn, fabric, or fiber, the term “com-
 4 ponent of the good that determines the tariff
 5 classification of the good” means all of the fi-
 6 bers in the good.

7 (g) FUNGIBLE GOODS AND MATERIALS.—

8 (1) IN GENERAL.—

9 (A) CLAIM FOR PREFERENTIAL TARIFF
 10 TREATMENT.—A person claiming that a fun-
 11 gible good or fungible material is an originating
 12 good may base the claim either on the physical
 13 segregation of the fungible good or fungible ma-
 14 terial or by using an inventory management
 15 method with respect to the fungible good or
 16 fungible material.

17 (B) INVENTORY MANAGEMENT METHOD.—

18 In this subsection, the term “inventory manage-
 19 ment method” means—

- 20 (i) averaging;
- 21 (ii) “last-in, first-out”;
- 22 (iii) “first-in, first-out”; or
- 23 (iv) any other method—

24 (I) recognized in the generally
 25 accepted accounting principles of the

1 country in which the production is
2 performed (whether Colombia or the
3 United States); or

4 (II) otherwise accepted by that
5 country.

6 (2) ELECTION OF INVENTORY METHOD.—A
7 person selecting an inventory management method
8 under paragraph (1) for a particular fungible good
9 or fungible material shall continue to use that meth-
10 od for that fungible good or fungible material
11 throughout the fiscal year of such person.

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

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

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

19 (B) be disregarded in determining whether
20 all the nonoriginating materials used in the pro-
21 duction of the good undergo the applicable
22 change in tariff classification set forth in Annex
23 4.1 of the Agreement.

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

1 (A) the accessories, spare parts, or tools
2 are classified with and not invoiced separately
3 from the good, regardless of whether such ac-
4 cessories, spare parts, or tools are specified or
5 are separately identified in the invoice for the
6 good; and

7 (B) the quantities and value of the acces-
8 sories, spare parts, or tools are customary for
9 the good.

10 (3) REGIONAL VALUE CONTENT.—If the good is
11 subject to a regional value-content requirement, the
12 value of the accessories, spare parts, or tools shall
13 be taken into account as originating or nonorigi-
14 nating materials, as the case may be, in calculating
15 the regional value-content of the good.

16 (i) PACKAGING MATERIALS AND CONTAINERS FOR
17 RETAIL SALE.—Packaging materials and containers in
18 which a good is packaged for retail sale, if classified with
19 the good, shall be disregarded in determining whether all
20 the nonoriginating materials used in the production of the
21 good undergo the applicable change in tariff classification
22 set forth in Annex 3-A or Annex 4.1 of the Agreement,
23 and, if the good is subject to a regional value-content re-
24 quirement, the value of such packaging materials and con-
25 tainers shall be taken into account as originating or non-

1 originating materials, as the case may be, in calculating
2 the regional value-content of the good.

3 (j) PACKING MATERIALS AND CONTAINERS FOR
4 SHIPMENT.—Packing materials and containers for ship-
5 ment shall be disregarded in determining whether a good
6 is an originating good.

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

10 (l) TRANSIT AND TRANSHIPMENT.—A good that has
11 undergone production necessary to qualify as an origi-
12 nating good under subsection (b) shall not be considered
13 to be an originating good if, subsequent to that produc-
14 tion, the good—

15 (1) undergoes further production or any other
16 operation outside the territory of Colombia or the
17 United States, other than unloading, reloading, or
18 any other operation necessary to preserve the good
19 in good condition or to transport the good to the ter-
20 ritory of Colombia or the United States; or

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

24 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
25 SETS.—Notwithstanding the rules set forth in Annex 3-

1 A and Annex 4.1 of the Agreement, goods classifiable as
2 goods put up in sets for retail sale as provided for in Gen-
3 eral Rule of Interpretation 3 of the HTS shall not be con-
4 sidered to be originating goods unless—

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

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

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

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

14 (n) DEFINITIONS.—In this section:

15 (1) ADJUSTED VALUE.—The term “adjusted
16 value” means the value determined in accordance
17 with Articles 1 through 8, Article 15, and the cor-
18 responding interpretive notes, of the Agreement on
19 Implementation of Article VII of the General Agree-
20 ment on Tariffs and Trade 1994 referred to in sec-
21 tion 101(d)(8) of the Uruguay Round Agreements
22 Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary,
23 to exclude any costs, charges, or expenses incurred
24 for transportation, insurance, and related services
25 incident to the international shipment of the mer-

1 chandise from the country of exportation to the
2 place of importation.

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

6 (A) Motor vehicles provided for in sub-
7 heading 8701.20, 8704.10, 8704.22, 8704.23,
8 8704.32, or 8704.90, or heading 8705 or 8706,
9 or motor vehicles for the transport of 16 or
10 more persons provided for in subheading
11 8702.10 or 8702.90.

12 (B) Motor vehicles provided for in sub-
13 heading 8701.10 or any of subheadings
14 8701.30 through 8701.90.

15 (C) Motor vehicles for the transport of 15
16 or fewer persons provided for in subheading
17 8702.10 or 8702.90, or motor vehicles provided
18 for in subheading 8704.21 or 8704.31.

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

21 (3) FUNGIBLE GOOD OR FUNGIBLE MATE-
22 RIAL.—The term “fungible good” or “fungible mate-
23 rial” means a good or material, as the case may be,
24 that is interchangeable with another good or mate-
25 rial for commercial purposes and the properties of

1 which are essentially identical to such other good or
2 material.

3 (4) GENERALLY ACCEPTED ACCOUNTING PRIN-
4 CIPLES.—The term “generally accepted accounting
5 principles”—

6 (A) means the recognized consensus or
7 substantial authoritative support given in the
8 territory of Colombia or the United States, as
9 the case may be, with respect to the recording
10 of revenues, expenses, costs, assets, and liabil-
11 ities, the disclosure of information, and the
12 preparation of financial statements; and

13 (B) may encompass broad guidelines for
14 general application as well as detailed stand-
15 ards, practices, and procedures.

16 (5) GOOD WHOLLY OBTAINED OR PRODUCED
17 ENTIRELY IN THE TERRITORY OF COLOMBIA, THE
18 UNITED STATES, OR BOTH.—The term “good wholly
19 obtained or produced entirely in the territory of Co-
20 lombia, the United States, or both” means any of
21 the following:

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

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

4 (C) Goods obtained in the territory of Co-
5 lombia, the United States, or both from live
6 animals.

7 (D) Goods obtained from hunting, trap-
8 ping, fishing, or aquaculture conducted in the
9 territory of Colombia, the United States, or
10 both.

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

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

19 (i) a vessel that is registered or re-
20 corded with Colombia and flying the flag of
21 Colombia; or

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

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

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

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

8 (H)(i) Goods taken by Colombia or a per-
9 son of Colombia from the seabed or subsoil out-
10 side the territorial waters of Colombia, if Co-
11 lombia has rights to exploit such seabed or sub-
12 soil.

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

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

24 (J) Waste and scrap derived from—

1 (i) manufacturing or processing oper-
2 ations in the territory of Colombia, the
3 United States, or both; or

4 (ii) used goods collected in the terri-
5 tory of Colombia, the United States, or
6 both, if such goods are fit only for the re-
7 covery of raw materials.

8 (K) Recovered goods derived in the terri-
9 tory of Colombia, the United States, or both,
10 from used goods, and used in the territory of
11 Colombia, the United States, or both, in the
12 production of remanufactured goods.

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

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

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

20 (6) IDENTICAL GOODS.—The term “identical
21 goods” means goods that are the same in all re-
22 spects relevant to the rule of origin that qualifies the
23 goods as originating goods.

24 (7) INDIRECT MATERIAL.—The term “indirect
25 material” means a good used in the production, test-

1 ing, or inspection of another good but not physically
2 incorporated into that other good, or a good used in
3 the maintenance of buildings or the operation of
4 equipment associated with the production of another
5 good, including—

6 (A) fuel and energy;

7 (B) tools, dies, and molds;

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

10 (D) lubricants, greases, compounding ma-
11 terials, and other materials used in production
12 or used to operate equipment or buildings;

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

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

17 (G) catalysts and solvents; and

18 (H) any other good that is not incor-
19 porated into the other good but the use of
20 which in the production of the other good can
21 reasonably be demonstrated to be a part of that
22 production.

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

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

5 (10) MODEL LINE OF MOTOR VEHICLES.—The
6 term “model line of motor vehicles” means a group
7 of motor vehicles having the same platform or model
8 name.

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

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

20 (13) NONORIGINATING GOOD OR NONORIGI-
21 NATING MATERIAL.—The term “nonoriginating
22 good” or “nonoriginating material” means a good or
23 material, as the case may be, that does not qualify
24 as originating under this section.

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

7 (15) PREFERENTIAL TARIFF TREATMENT.—
8 The term “preferential tariff treatment” means the
9 customs duty rate, and the treatment under article
10 2.10.4 of the Agreement, that are applicable to an
11 originating good pursuant to the Agreement.

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

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

19 (18) REASONABLY ALLOCATE.—The term “rea-
20 sonably allocate” means to apportion in a manner
21 that would be appropriate under generally accepted
22 accounting principles.

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

1 (A) the disassembly of used goods into in-
2 dividual parts; and

3 (B) the cleaning, inspecting, testing, or
4 other processing that is necessary for improve-
5 ment to sound working condition of such indi-
6 vidual parts.

7 (20) REMANUFACTURED GOOD.—The term “re-
8 manufactured good” means an industrial good as-
9 sembled in the territory of Colombia or the United
10 States, or both, that is classified under chapter 84,
11 85, 87, or 90 or heading 9402, other than a good
12 classified under heading 8418 or 8516, and that—

13 (A) is entirely or partially comprised of re-
14 covered goods; and

15 (B) has a similar life expectancy and en-
16 joys a factory warranty similar to such a good
17 that is new.

18 (21) TOTAL COST.—

19 (A) IN GENERAL.—The term “total
20 cost”—

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

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

7 (B) OTHER DEFINITIONS.—In this para-
8 graph:

9 (i) PRODUCT COSTS.—The term
10 “product costs” means costs that are asso-
11 ciated with the production of a good and
12 include the value of materials, direct labor
13 costs, and direct overhead.

14 (ii) PERIOD COSTS.—The term “pe-
15 riod costs” means costs, other than prod-
16 uct costs, that are expensed in the period
17 in which they are incurred, such as selling
18 expenses and general and administrative
19 expenses.

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

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

1 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

6 (B) any additional subordinate category
7 that is necessary to carry out this title con-
8 sistent with the Agreement.

9 (2) FABRICS AND YARNS NOT AVAILABLE IN
10 COMMERCIAL QUANTITIES IN THE UNITED
11 STATES.—The President is authorized to proclaim
12 that a fabric or yarn is added to the list in Annex
13 3-B of the Agreement in an unrestricted quantity, as
14 provided in article 3.3.5(e) of the Agreement.

15 (3) MODIFICATIONS.—

16 (A) IN GENERAL.—Subject to the consulta-
17 tion and layover provisions of section 104, the
18 President may proclaim modifications to the
19 provisions proclaimed under the authority of
20 paragraph (1)(A), other than provisions of
21 chapters 50 through 63 (as included in Annex
22 3-A of the Agreement).

23 (B) ADDITIONAL PROCLAMATIONS.—Not-
24 withstanding subparagraph (A), and subject to
25 the consultation and layover provisions of sec-

1 tion 104, the President may proclaim before the
2 end of the 1-year period beginning on the date
3 on which the Agreement enters into force,
4 modifications to correct any typographical, cler-
5 ical, or other nonsubstantive technical error re-
6 garding the provisions of chapters 50 through
7 63 (as included in Annex 3-A of the Agree-
8 ment).

9 (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-
10 ABLE IN COMMERCIAL QUANTITIES IN COLOMBIA
11 AND THE UNITED STATES.—

12 (A) IN GENERAL.—Notwithstanding para-
13 graph (3)(A), the list of fabrics, yarns, and fi-
14 bers set forth in Annex 3-B of the Agreement
15 may be modified as provided for in this para-
16 graph.

17 (B) DEFINITIONS.—In this paragraph:

18 (i) INTERESTED ENTITY.—The term
19 “interested entity” means the Government
20 of Colombia, a potential or actual pur-
21 chaser of a textile or apparel good, or a po-
22 tential or actual supplier of a textile or ap-
23 parel good.

24 (ii) DAY; DAYS.—All references to
25 “day” and “days” exclude Saturdays, Sun-

1 days, and legal holidays observed by the
2 Government of the United States.

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

5 (i) IN GENERAL.—An interested entity
6 may request the President to determine
7 that a fabric, yarn, or fiber is not available
8 in commercial quantities in a timely man-
9 ner in Colombia and the United States and
10 to add that fabric, yarn, or fiber to the list
11 in Annex 3-B of the Agreement in a re-
12 stricted or unrestricted quantity.

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

16 (I) the fabric, yarn, or fiber is
17 available in commercial quantities in a
18 timely manner in Colombia or the
19 United States; or

20 (II) any interested entity objects
21 to the request.

22 (iii) PROCLAMATION AUTHORITY.—
23 The President may, within the time peri-
24 ods specified in clause (iv), proclaim that
25 the fabric, yarn, or fiber that is the subject

1 of the request is added to the list in Annex
2 3-B of the Agreement in an unrestricted
3 quantity, or in any restricted quantity that
4 the President may establish, if the Presi-
5 dent has determined under clause (ii)
6 that—

7 (I) the fabric, yarn, or fiber is
8 not available in commercial quantities
9 in a timely manner in Colombia and
10 the United States; or

11 (II) no interested entity has ob-
12 jected to the request.

13 (iv) TIME PERIODS.—The time peri-
14 ods within which the President may issue
15 a proclamation under clause (iii) are—

16 (I) not later than 30 days after
17 the date on which a request is sub-
18 mitted under clause (i); or

19 (II) not later than 44 days after
20 the request is submitted, if the Presi-
21 dent determines, within 30 days after
22 the date on which the request is sub-
23 mitted, that the President does not
24 have sufficient information to make a
25 determination under clause (ii).

1 (v) EFFECTIVE DATE.—Notwith-
2 standing section 103(a)(2), a proclamation
3 made under clause (iii) shall take effect on
4 the date on which the text of the proclama-
5 tion is published in the Federal Register.

6 (vi) SUBSEQUENT ACTION.—Not later
7 than 6 months after proclaiming under
8 clause (iii) that a fabric, yarn, or fiber is
9 added to the list in Annex 3-B of the
10 Agreement in a restricted quantity, the
11 President may eliminate the restriction if
12 the President determines that the fabric,
13 yarn, or fiber is not available in commer-
14 cial quantities in a timely manner in Co-
15 lombia and the United States.

16 (D) DEEMED APPROVAL OF REQUEST.—If,
17 after an interested entity submits a request
18 under subparagraph (C)(i), the President does
19 not, within the applicable time period specified
20 in subparagraph (C)(iv), make a determination
21 under subparagraph (C)(ii) regarding the re-
22 quest, the fabric, yarn, or fiber that is the sub-
23 ject of the request shall be considered to be
24 added, in an unrestricted quantity, to the list in
25 Annex 3-B of the Agreement beginning—

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

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

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

9 (i) IN GENERAL.—Subject to clause
10 (ii), an interested entity may request the
11 President to restrict the quantity of, or re-
12 move from the list in Annex 3-B of the
13 Agreement, any fabric, yarn, or fiber—

14 (I) that has been added to that
15 list in an unrestricted quantity pursu-
16 ant to paragraph (2) or subparagraph
17 (C)(iii) or (D) of this paragraph; or

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

21 (ii) TIME PERIOD FOR SUBMISSION.—
22 An interested entity may submit a request
23 under clause (i) at any time beginning on
24 the date that is 6 months after the date of

1 the action described in subclause (I) or (II)
2 of that clause.

3 (iii) PROCLAMATION AUTHORITY.—

4 Not later than 30 days after the date on
5 which a request under clause (i) is sub-
6 mitted, the President may proclaim an ac-
7 tion provided for under clause (i) if the
8 President determines that the fabric, yarn,
9 or fiber that is the subject of the request
10 is available in commercial quantities in a
11 timely manner in Colombia or the United
12 States.

13 (iv) EFFECTIVE DATE.—A proclama-
14 tion issued under clause (iii) may not take
15 effect earlier than the date that is 6
16 months after the date on which the text of
17 the proclamation is published in the Fed-
18 eral Register.

19 (F) PROCEDURES.—The President shall
20 establish procedures—

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

24 (ii) providing an opportunity for inter-
25 ested entities to submit comments and sup-

1 porting evidence before the President
 2 makes a determination under subpara-
 3 graph (C) (ii) or (vi) or (E)(iii).

4 **SEC. 204. CUSTOMS USER FEES.**

5 Section 13031(b) of the Consolidated Omnibus Budg-
 6 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is
 7 amended by adding after paragraph (19), the following:
 8 “(20) No fee may be charged under subsection (a)
 9 (9) or (10) with respect to goods that qualify as origi-
 10 nating goods under section 203 of the United States–Co-
 11 lombia Trade Promotion Agreement Implementation Act.
 12 Any service for which an exemption from such fee is pro-
 13 vided by reason of this paragraph may not be funded with
 14 money contained in the Customs User Fee Account.”.

15 **SEC. 205. DISCLOSURE OF INCORRECT INFORMATION;
 16 FALSE CERTIFICATIONS OF ORIGIN; DENIAL
 17 OF PREFERENTIAL TARIFF TREATMENT.**

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

21 (1) in subsection (c)—

22 (A) by redesignating paragraph (12) as
 23 paragraph (13); and

24 (B) by inserting after paragraph (11) the
 25 following new paragraph:

1 “(12) PRIOR DISCLOSURE REGARDING CLAIMS
2 UNDER THE UNITED STATES–COLOMBIA TRADE PRO-
3 MOTION AGREEMENT.—An importer shall not be
4 subject to penalties under subsection (a) for making
5 an incorrect claim that a good qualifies as an origi-
6 nating good under section 203 of the United States–
7 Colombia Trade Promotion Agreement Implementa-
8 tion Act if the importer, in accordance with regula-
9 tions issued by the Secretary of the Treasury,
10 promptly and voluntarily makes a corrected declara-
11 tion and pays any duties owing with respect to that
12 good.”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(k) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
16 UNITED STATES–COLOMBIA TRADE PROMOTION AGREE-
17 MENT.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 it is unlawful for any person to certify falsely, by
20 fraud, gross negligence, or negligence, in a CTPA
21 certification of origin (as defined in section 508 of
22 this Act) that a good exported from the United
23 States qualifies as an originating good under the
24 rules of origin provided for in section 203 of the
25 United States–Colombia Trade Promotion Agree-

1 ment Implementation Act. The procedures and pen-
2 alties of this section that apply to a violation of sub-
3 section (a) also apply to a violation of this sub-
4 section.

5 “(2) PROMPT AND VOLUNTARY DISCLOSURE OF
6 INCORRECT INFORMATION.—No penalty shall be im-
7 posed under this subsection if, promptly after an ex-
8 porter or producer that issued a CTPA certification
9 of origin has reason to believe that such certification
10 contains or is based on incorrect information, the ex-
11 porter or producer voluntarily provides written no-
12 tice of such incorrect information to every person to
13 whom the certification was issued.

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

16 “(A) the information was correct at the
17 time it was provided in a CTPA certification of
18 origin but was later rendered incorrect due to
19 a change in circumstances; and

20 “(B) the person promptly and voluntarily
21 provides written notice of the change in cir-
22 cumstances to all persons to whom the person
23 provided the certification.”.

24 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-
25 MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.

1 1514) is amended by adding at the end the following new
2 subsection:

3 “(k) DENIAL OF PREFERENTIAL TARIFF TREAT-
4 MENT UNDER THE UNITED STATES–COLOMBIA TRADE
5 PROMOTION AGREEMENT.—If U.S. Customs and Border
6 Protection or U.S. Immigration and Customs Enforce-
7 ment of the Department of Homeland Security finds indi-
8 cations of a pattern of conduct by an importer, exporter,
9 or producer of false or unsupported representations that
10 goods qualify under the rules of origin provided for in sec-
11 tion 203 of the United States–Colombia Trade Promotion
12 Agreement Implementation Act, U.S. Customs and Border
13 Protection, in accordance with regulations issued by the
14 Secretary of the Treasury, may suspend preferential tariff
15 treatment under the United States–Colombia Trade Pro-
16 motion Agreement to entries of identical goods covered by
17 subsequent representations by that importer, exporter, or
18 producer until U.S. Customs and Border Protection deter-
19 mines that representations of that person are in con-
20 formity with such section 203.”.

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

22 Section 520(d) of the Tariff Act of 1930 (19 U.S.C.
23 1520(d)) is amended in the matter preceding paragraph
24 (1)—

25 (1) by striking “or”; and

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

5 **SEC. 207. RECORDKEEPING REQUIREMENTS.**

6 Section 508 of the Tariff Act of 1930 (19 U.S.C.
7 1508) is amended—

8 (1) by redesignating subsection (j) as sub-
9 section (k);

10 (2) by inserting after subsection (i) the fol-
11 lowing new subsection:

12 “(j) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
13 PORTED UNDER THE UNITED STATES–COLOMBIA TRADE
14 PROMOTION AGREEMENT.—

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

16 “(A) RECORDS AND SUPPORTING DOCU-
17 MENTS.—The term ‘records and supporting
18 documents’ means, with respect to an exported
19 good under paragraph (2), records and docu-
20 ments related to the origin of the good, includ-
21 ing—

22 “(i) the purchase, cost, and value of,
23 and payment for, the good;

24 “(ii) the purchase, cost, and value of,
25 and payment for, all materials, including

1 indirect materials, used in the production
2 of the good; and

3 “(iii) the production of the good in
4 the form in which it was exported.

5 “(B) CTPA CERTIFICATION OF ORIGIN.—

6 The term ‘CTPA certification of origin’ means
7 the certification established under article 4.15
8 of the United States–Colombia Trade Pro-
9 motion Agreement that a good qualifies as an
10 originating good under such Agreement.

11 “(2) EXPORTS TO COLOMBIA.—Any person who
12 completes and issues a CTPA certification of origin
13 for a good exported from the United States shall
14 make, keep, and, pursuant to rules and regulations
15 promulgated by the Secretary of the Treasury,
16 render for examination and inspection all records
17 and supporting documents related to the origin of
18 the good (including the certification or copies there-
19 of).

20 “(3) RETENTION PERIOD.—The person who
21 issues a CTPA certification of origin shall keep the
22 records and supporting documents relating to that
23 certification of origin for a period of at least 5 years
24 after the date on which the certification is issued.”;
25 and

1 (3) in subsection (k), as so redesignated by
2 striking “(h), or (i)” and inserting “(h), (i), or (j)”.

3 **SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE**
4 **OR APPAREL GOODS.**

5 (a) ACTION DURING VERIFICATION.—

6 (1) IN GENERAL.—If the Secretary of the
7 Treasury requests the Government of Colombia to
8 conduct a verification pursuant to article 3.2 of the
9 Agreement for purposes of making a determination
10 under paragraph (2), the President may direct the
11 Secretary to take appropriate action described in
12 subsection (b) while the verification is being con-
13 ducted.

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

17 (A) an exporter or producer in Colombia is
18 complying with applicable customs laws, regula-
19 tions, and procedures regarding trade in textile
20 or apparel goods, or

21 (B) a claim that a textile or apparel good
22 exported or produced by such exporter or pro-
23 ducer—

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

1 (ii) is a good of Colombia,
2 is accurate.

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

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

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

15 (B) the textile or apparel good for which a
16 claim of preferential tariff treatment has been
17 made that is the subject of a verification under
18 subsection (a)(1) regarding a claim described in
19 subsection (a)(2)(B), if the Secretary deter-
20 mines that there is insufficient information to
21 support that claim;

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

24 (A) any textile or apparel good exported or
25 produced by the person that is the subject of a

1 verification under subsection (a)(1) regarding
2 compliance described in subsection (a)(2)(A), if
3 the Secretary determines that the person has
4 provided incorrect information to support any
5 claim for preferential tariff treatment that has
6 been made with respect to any such good; or

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

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

22 (4) denial of entry into the United States of
23 any textile or apparel good exported or produced by
24 the person that is the subject of a verification under
25 subsection (a)(1) regarding compliance described in

1 subsection (a)(2)(A) or a claim described in sub-
2 section (a)(2)(B), if the Secretary determines that
3 the person has provided incorrect information as to
4 the country of origin of any such good.

5 (c) ACTION ON COMPLETION OF A VERIFICATION.—
6 On completion of a verification under subsection (a)(1),
7 the President may direct the Secretary of the Treasury
8 to take appropriate action described in subsection (d) until
9 such time as the Secretary receives information sufficient
10 to make the determination under subsection (a)(2) or until
11 such earlier date as the President may direct.

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

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

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

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

18 (e) PUBLICATION OF NAME OF PERSON.—In accord-
19 ance with article 3.2.6 of the Agreement, the Secretary
20 of the Treasury may publish the name of any person that
21 the Secretary has determined—

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

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

3 **SEC. 209. REGULATIONS.**

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

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

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

8 (3) any proclamation issued under section
9 203(o).

10 **TITLE III—RELIEF FROM**
11 **IMPORTS**

12 **SEC. 301. DEFINITIONS.**

13 In this title:

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

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

21 **Subtitle A—Relief From Imports**
22 **Benefitting From the Agreement**

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

24 (a) **FILING OF PETITION.**—A petition requesting ac-
25 tion under this subtitle for the purpose of adjusting to

1 the obligations of the United States under the Agreement
2 may be filed with the Commission by an entity, including
3 a trade association, firm, certified or recognized union, or
4 group of workers, that is representative of an industry.
5 The Commission shall transmit a copy of any petition filed
6 under this subsection to the United States Trade Rep-
7 resentative.

8 (b) INVESTIGATION AND DETERMINATION.—Upon
9 the filing of a petition under subsection (a), the Commis-
10 sion, unless subsection (d) applies, shall promptly initiate
11 an investigation to determine whether, as a result of the
12 reduction or elimination of a duty provided for under the
13 Agreement, a Colombian article is being imported into the
14 United States in such increased quantities, in absolute
15 terms or relative to domestic production, and under such
16 conditions that imports of the Colombian article constitute
17 a substantial cause of serious injury or threat thereof to
18 the domestic industry producing an article that is like, or
19 directly competitive with, the imported article.

20 (c) APPLICABLE PROVISIONS.—The following provi-
21 sions of section 202 of the Trade Act of 1974 (19 U.S.C.
22 2252) apply with respect to any investigation initiated
23 under subsection (b):

24 (1) Paragraphs (1)(B) and (3) of subsection
25 (b).

1 (2) Subsection (c).

2 (3) Subsection (i).

3 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No
4 investigation may be initiated under this section with re-
5 spect to any Colombian article if, after the date on which
6 the Agreement enters into force, import relief has been
7 provided with respect to that Colombian article under this
8 subtitle.

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

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

14 (b) APPLICABLE PROVISIONS.—For purposes of this
15 subtitle, the provisions of paragraphs (1), (2), and (3) of
16 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
17 1330(d) (1), (2), and (3)) shall be applied with respect
18 to determinations and findings made under this section
19 as if such determinations and findings were made under
20 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

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

23 (1) IN GENERAL.—If the determination made
24 by the Commission under subsection (a) with respect
25 to imports of an article is affirmative, or if the

1 President may consider a determination of the Com-
2 mission to be an affirmative determination as pro-
3 vided for under paragraph (1) of section 330(d) of
4 the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the
5 Commission shall find, and recommend to the Presi-
6 dent in the report required under subsection (d), the
7 amount of import relief that is necessary to remedy
8 or prevent the injury found by the Commission in
9 the determination and to facilitate the efforts of the
10 domestic industry to make a positive adjustment to
11 import competition.

12 (2) LIMITATION ON RELIEF.—The import relief
13 recommended by the Commission under this sub-
14 section shall be limited to the relief described in sec-
15 tion 313(e).

16 (3) VOTING; SEPARATE VIEWS.—Only those
17 members of the Commission who voted in the af-
18 firmative under subsection (a) are eligible to vote on
19 the proposed action to remedy or prevent the injury
20 found by the Commission. Members of the Commis-
21 sion who did not vote in the affirmative may submit,
22 in the report required under subsection (d), separate
23 views regarding what action, if any, should be taken
24 to remedy or prevent the injury.

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

6 (1) the determination made under subsection
7 (a) and an explanation of the basis for the deter-
8 mination;

9 (2) if the determination under subsection (a) is
10 affirmative, any findings and recommendations for
11 import relief made under subsection (c) and an ex-
12 planation of the basis for each recommendation; and

13 (3) any dissenting or separate views by mem-
14 bers of the Commission regarding the determination
15 referred to in paragraph (1) and any finding or rec-
16 ommendation referred to in paragraph (2).

17 (e) PUBLIC NOTICE.—Upon submitting a report to
18 the President under subsection (d), the Commission shall
19 promptly make public the report (with the exception of
20 information which the Commission determines to be con-
21 fidential) and shall publish a summary of the report in
22 the Federal Register.

23 **SEC. 313. PROVISION OF RELIEF.**

24 (a) IN GENERAL.—Not later than the date that is
25 30 days after the date on which the President receives a

1 report of the Commission in which the Commission's de-
2 termination under section 312(a) is affirmative, or which
3 contains a determination under section 312(a) that the
4 President considers to be affirmative under paragraph (1)
5 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.
6 1330(d)(1)), the President, subject to subsection (b), shall
7 provide relief from imports of the article that is the subject
8 of such determination to the extent that the President de-
9 termines necessary to remedy or prevent the injury found
10 by the Commission and to facilitate the efforts of the do-
11 mestic industry to make a positive adjustment to import
12 competition.

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

17 (c) NATURE OF RELIEF.—

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

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

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

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

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

11 (2) PROGRESSIVE LIBERALIZATION.—If the pe-
12 riod for which import relief is provided under this
13 section is greater than 1 year, the President shall
14 provide for the progressive liberalization (described
15 in article 8.2.2 of the Agreement) of such relief at
16 regular intervals during the period of its application.

17 (d) PERIOD OF RELIEF.—

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

22 (2) EXTENSION.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (C), the President, after receiving a de-
25 termination from the Commission under sub-

1 paragraph (B) that is affirmative, or which the
2 President considers to be affirmative under
3 paragraph (1) of section 330(d) of the Tariff
4 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-
5 tend the effective period of any import relief
6 provided under this section by up to 2 years, if
7 the President determines that—

8 (i) the import relief continues to be
9 necessary to remedy or prevent serious in-
10 jury and to facilitate adjustment by the do-
11 mestic industry to import competition; and

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

15 (B) ACTION BY COMMISSION.—

16 (i) INVESTIGATION.—Upon a petition
17 on behalf of the industry concerned that is
18 filed with the Commission not earlier than
19 the date that is 9 months, and not later
20 than the date that is 6 months, before the
21 date on which any action taken under sub-
22 section (a) is to terminate, the Commission
23 shall conduct an investigation to determine
24 whether action under this section continues
25 to be necessary to remedy or prevent seri-

1 ous injury and whether there is evidence
2 that the industry is making a positive ad-
3 justment to import competition.

4 (ii) NOTICE AND HEARING.—The
5 Commission shall publish notice of the
6 commencement of any proceeding under
7 this subparagraph in the Federal Register
8 and shall, within a reasonable time there-
9 after, hold a public hearing at which the
10 Commission shall afford interested parties
11 and consumers an opportunity to be
12 present, to present evidence, and to re-
13 spond to the presentations of other parties
14 and consumers, and otherwise to be heard.

15 (iii) REPORT.—The Commission shall
16 submit to the President a report on its in-
17 vestigation and determination under this
18 subparagraph not later than 60 days be-
19 fore the action under subsection (a) is to
20 terminate, unless the President specifies a
21 different date.

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

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

4 (1) the rate of duty on that article after such
5 termination and on or before December 31 of the
6 year in which such termination occurs shall be the
7 rate that, according to the Schedule of the United
8 States to Annex 2.3 of the Agreement, would have
9 been in effect 1 year after the provision of relief
10 under subsection (a); and

11 (2) the rate of duty for that article after De-
12 cember 31 of the year in which such termination oc-
13 curs shall be, at the discretion of the President, ei-
14 ther—

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

18 (B) the rate of duty resulting from the
19 elimination of the tariff in equal annual stages
20 ending on the date set forth in the Schedule of
21 the United States to Annex 2.3 of the Agree-
22 ment for the elimination of the tariff.

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

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

3 (A) subtitle B; or

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

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

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

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

13 (b) EXCEPTION.—If an article for which relief is pro-
14 vided under this subtitle is an article for which the period
15 for tariff elimination, set forth in the Schedule of the
16 United States to Annex 2.3 of the Agreement, is greater
17 than 10 years, no relief under this subtitle may be pro-
18 vided for that article after the date on which that period
19 ends.

20 **SEC. 315. COMPENSATION AUTHORITY.**

21 For purposes of section 123 of the Trade Act of 1974
22 (19 U.S.C. 2133), any import relief provided by the Presi-
23 dent under section 313 shall be treated as action taken
24 under chapter 1 of title II of such Act (19 U.S.C. 2251
25 et seq.).

1 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

4 (1) by striking “and”; and

5 (2) by inserting before the period at the end “,
6 and title III of the United States–Colombia Trade
7 Promotion Agreement Implementation Act”.

8 **Subtitle B—Textile and Apparel**
9 **Safeguard Measures**

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

11 (a) IN GENERAL.—A request for action under this
12 subtitle for the purpose of adjusting to the obligations of
13 the United States under the Agreement may be filed with
14 the President by an interested party. Upon the filing of
15 a request, the President shall review the request to deter-
16 mine, from information presented in the request, whether
17 to commence consideration of the request.

18 (b) PUBLICATION OF REQUEST.—If the President de-
19 termines that the request under subsection (a) provides
20 the information necessary for the request to be considered,
21 the President shall publish in the Federal Register a no-
22 tice of commencement of consideration of the request, and
23 notice seeking public comments regarding the request. The
24 notice shall include a summary of the request and the
25 dates by which comments and rebuttals must be received.

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

2 (a) DETERMINATION.—

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

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

16 (A) shall examine the effect of increased
17 imports on the domestic industry, as reflected
18 in changes in such relevant economic factors as
19 output, productivity, utilization of capacity, in-
20 ventories, market share, exports, wages, em-
21 ployment, domestic prices, profits and losses,
22 and investment, no one of which is necessarily
23 decisive; and

24 (B) shall not consider changes in consumer
25 preference or changes in technology in the
26 United States as factors supporting a deter-

1 mination of serious damage or actual threat
2 thereof.

3 (b) PROVISION OF RELIEF.—

4 (1) IN GENERAL.—If a determination under
5 subsection (a) is affirmative, the President may pro-
6 vide relief from imports of the article that is the
7 subject of such determination, as provided in para-
8 graph (2), to the extent that the President deter-
9 mines necessary to remedy or prevent the serious
10 damage and to facilitate adjustment by the domestic
11 industry.

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

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

20 (B) the column 1 general rate of duty im-
21 posed under the HTS on like articles on the
22 day before the date on which the Agreement en-
23 ters into force.

1 **SEC. 323. PERIOD OF RELIEF.**

2 (a) IN GENERAL.—Subject to subsection (b), the im-
3 port relief that the President provides under section
4 322(b) may not be in effect for more than 2 years.

5 (b) EXTENSION.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 the President may extend the effective period of any
8 import relief provided under this subtitle for a pe-
9 riod of not more than 1 year, if the President deter-
10 mines that—

11 (A) the import relief continues to be nec-
12 essary to remedy or prevent serious damage
13 and to facilitate adjustment by the domestic in-
14 dustry to import competition; and

15 (B) there is evidence that the industry is
16 making a positive adjustment to import com-
17 petition.

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

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

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

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

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

3 (A) subtitle A; or

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

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

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

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

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

15 **SEC. 327. COMPENSATION AUTHORITY.**

16 For purposes of section 123 of the Trade Act of 1974
17 (19 U.S.C. 2133), any import relief provided by the Presi-
18 dent under this subtitle shall be treated as action taken
19 under chapter 1 of title II of such Act (19 U.S.C. 2251
20 et seq.).

21 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

22 The President may not release information received
23 in connection with an investigation or determination under
24 this subtitle which the President considers to be confiden-
25 tial business information unless the party submitting the

1 confidential business information had notice, at the time
2 of submission, that such information would be released by
3 the President, or such party subsequently consents to the
4 release of the information. To the extent a party submits
5 confidential business information, the party shall also pro-
6 vide a nonconfidential version of the information in which
7 the confidential business information is summarized or, if
8 necessary, deleted.

9 **Subtitle C—Cases Under Title II of**
10 **the Trade Act of 1974**

11 **SEC. 331. FINDINGS AND ACTION ON COLOMBIAN ARTI-**
12 **CLES.**

13 (a) EFFECT OF IMPORTS.—If, in any investigation
14 initiated under chapter 1 of title II of the Trade Act of
15 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
16 affirmative determination (or a determination which the
17 President may treat as an affirmative determination under
18 such chapter by reason of section 330(d) of the Tariff Act
19 of 1930 (19 U.S.C. 1330(d)), the Commission shall also
20 find (and report to the President at the time such injury
21 determination is submitted to the President) whether im-
22 ports of the Colombian article are a substantial cause of
23 serious injury or threat thereof.

24 (b) PRESIDENTIAL DETERMINATION REGARDING CO-
25 LOMBIAN ARTICLES.—In determining the nature and ex-

1 tent of action to be taken under chapter 1 of title II of
2 the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Presi-
3 dent may exclude from the action Colombian articles with
4 respect to which the Commission has made a negative
5 finding under subsection (a).

6 **TITLE IV—PROCUREMENT**

7 **SEC. 401. ELIGIBLE PRODUCTS.**

8 Section 308(4)(A) of the Trade Agreements Act of
9 1979 (19 U.S.C. 2518(4)(A)) is amended—

10 (1) by striking “or” at the end of clause (vii);

11 (2) by striking the period at the end of clause
12 (viii) and inserting “; or”; and

13 (3) by adding at the end the following new
14 clause:

15 “(ix) a party to the United States–Co-
16 lombia Trade Promotion Agreement, a
17 product or service of that country or in-
18 strumentality which is covered under that
19 agreement for procurement by the United
20 States.”.

1 **TITLE V—EXTENSION OF ANDE-**
2 **AN TRADE PREFERENCE ACT**

3 **SEC. 501. EXTENSION OF ANDEAN TRADE PREFERENCE**
4 **ACT.**

5 (a) EXTENSION.—Section 208(a) of the Andean
6 Trade Preference Act (19 U.S.C. 3206(a)) is amended—

7 (1) in paragraph (1)(A), by striking “February
8 12, 2011” and inserting “July 31, 2013”; and

9 (2) in paragraph (2), by striking “February 12,
10 2011” and inserting “July 31, 2013”.

11 (b) TREATMENT OF CERTAIN APPAREL ARTICLES.—
12 Section 204(b)(3) of the Andean Trade Preference Act
13 (19 U.S.C. 3203(b)(3)) is amended—

14 (1) in subparagraph (B)—

15 (A) in clause (iii)—

16 (i) in subclause (II), by striking “8
17 succeeding 1-year periods” and inserting
18 “10 succeeding 1-year periods”; and

19 (ii) in subclause (III)(bb), by striking
20 “and for the succeeding 3-year period” and
21 inserting “and for the succeeding 5-year
22 period”; and

23 (B) in clause (v)(II), by striking “7 suc-
24 ceeding 1-year periods” and inserting “9 suc-
25 ceeding 1-year periods”; and

1 (2) in subparagraph (E)(ii)(II), by striking
2 “February 12, 2011” and inserting “July 31,
3 2013”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to articles entered on or after
7 the 15th day after the date of the enactment of this
8 Act.

9 (2) RETROACTIVE APPLICATION FOR CERTAIN
10 LIQUIDATIONS AND RELIQUIDATIONS.—

11 (A) IN GENERAL.—Notwithstanding sec-
12 tion 514 of the Tariff Act of 1930 (19 U.S.C.
13 1514) or any other provision of law and subject
14 to subparagraph (B), any entry of an article to
15 which duty-free treatment or other preferential
16 treatment under the Andean Trade Preference
17 Act would have applied if the entry had been
18 made on February 12, 2011, that was made—

19 (i) after February 12, 2011, and

20 (ii) before the 15th day after the date
21 of the enactment of this Act,

22 shall be liquidated or reliquidated as though
23 such entry occurred on the date that is 15 days
24 after the date of the enactment of this Act.

1 (B) REQUESTS.—A liquidation or reliqui-
2 dation may be made under subparagraph (A)
3 with respect to an entry only if a request there-
4 for is filed with U.S. Customs and Border Pro-
5 tection not later than 180 days after the date
6 of the enactment of this Act that contains suffi-
7 cient information to enable U.S. Customs and
8 Border Protection—

9 (i) to locate the entry; or

10 (ii) to reconstruct the entry if it can-
11 not be located.

12 (C) PAYMENT OF AMOUNTS OWED.—Any
13 amounts owed by the United States pursuant to
14 the liquidation or reliquidation of an entry of
15 an article under subparagraph (A) shall be
16 paid, without interest, not later than 90 days
17 after the date of the liquidation or reliquidation
18 (as the case may be).

19 (3) DEFINITION.—As used in this subsection,
20 the term “entry” includes a withdrawal from ware-
21 house for consumption.

TITLE VI—OFFSETS**SEC. 601. ELIMINATION OF CERTAIN NAFTA CUSTOMS FEES****EXEMPTION.**

(a) IN GENERAL.—Section 13031(b)(1)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(A)(i)) is amended to read as follows:

“(i) the arrival of any passenger whose journey—

“(I) originated in a territory or possession of the United States; or

“(II) originated in the United States and was limited to territories and possessions of the United States;”.

(b) USE OF FEES.—The fees collected as a result of the amendment made by this section shall be deposited in the Customs User Fee Account, shall be available for reimbursement of customs services and inspections costs, and shall be available only to the extent provided in appropriations Acts.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to passengers arriving from Canada, Mexico, or an adjacent island on or after the date that is 15 days after the date of the enactment of this Act.

1 **SEC. 602. EXTENSION OF CUSTOMS USER FEES.**

2 Section 13031(j)(3) of the Consolidated Omnibus
3 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))
4 is amended by adding at the end the following:

5 “(C)(i) Notwithstanding subparagraph (A), fees may
6 be charged under paragraphs (9) and (10) of subsection
7 (a) during the period beginning on August 3, 2021, and
8 ending on September 30, 2021.

9 “(ii) Notwithstanding subparagraph (B)(i), fees may
10 be charged under paragraphs (1) through (8) of sub-
11 section (a) during the period beginning on December 9,
12 2020, and ending on August 31, 2021.”.

13 **SEC. 603. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
14 **TAXES.**

15 Notwithstanding section 6655 of the Internal Rev-
16 enue Code of 1986, in the case of a corporation with assets
17 of not less than \$1,000,000,000 (determined as of the end
18 of the preceding taxable year)—

19 (1) the amount of any required installment of
20 corporate estimated tax which is otherwise due in
21 July, August, or September of 2016 shall be in-
22 creased by 0.50 percent of such amount (determined
23 without regard to any increase in such amount not
24 contained in such Code); and

25 (2) the amount of the next required installment
26 after an installment referred to in paragraph (1)

- 1 shall be appropriately reduced to reflect the amount
- 2 of the increase by reason of such paragraph.

Calendar No. 189

112TH CONGRESS
1ST Session

S. 1641

A BILL

To implement the United States-Colombia Trade
Promotion Agreement.

OCTOBER 11, 2011

Reported without amendment