

Calendar No. 191

112TH CONGRESS
1ST SESSION**S. 1643**

To implement the United States–Panama 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–Panama 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–Panama Trade Promotion Agreement Im-
6 plementation 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 Panamanian articles.

TITLE IV—MISCELLANEOUS

Sec. 401. Eligible products.

Sec. 402. Modification to the Caribbean Basin Economic Recovery Act.

TITLE V—OFFSETS

Sec. 501. Extension of customs user fees.

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

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to approve and implement the free trade
4 agreement between the United States and Panama
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 Panama for
10 their mutual benefit;

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

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

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

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

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

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

10 (4) TEXTILE OR APPAREL GOOD.—The term
11 “textile or apparel good” means a good listed in the
12 Annex to the Agreement on Textiles and Clothing
13 referred to in section 101(d)(4) of the Uruguay
14 Round Agreements Act (19 U.S.C. 3511(d)(4)),
15 other than a good listed in Annex 3.30 of the Agree-
16 ment.

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

20 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**
21 **AGREEMENT.**

22 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
23 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of
24 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–Panama Trade Pro-
4 motion Agreement entered into on June 28, 2007,
5 with the Government of Panama and submitted to
6 Congress on October 3, 2011; and

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

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

19 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**
20 **STATES AND STATE LAW.**

21 (a) **RELATIONSHIP OF AGREEMENT TO UNITED**
22 **STATES LAW.**—

23 (1) **UNITED STATES LAW TO PREVAIL IN CON-**
24 **FLICT.**—No provision of the Agreement, nor the ap-
25 plication of any such provision to any person or cir-

1 cumstance, which is inconsistent with any law of the
2 United States shall have effect.

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

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

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

10 (b) RELATIONSHIP OF AGREEMENT TO STATE
11 LAW.—

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

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

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

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

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

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

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

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

16 (a) IMPLEMENTING ACTIONS.—

17 (1) PROCLAMATION AUTHORITY.—After the
18 date of the enactment of this Act—

19 (A) the President may proclaim such ac-
20 tions, and

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

24 as may be necessary to ensure that any provision of
25 this Act, or amendment made by this Act, that takes

1 effect on the date on which the Agreement enters
2 into force is appropriately implemented on such
3 date, but no such proclamation or regulation may
4 have an effective date earlier than the date on which
5 the Agreement enters into force.

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

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

20 (b) INITIAL REGULATIONS.—Initial regulations nec-
21 essary or appropriate to carry out the actions required by
22 or authorized under this Act or proposed in the statement
23 of administrative action submitted under section
24 101(a)(2) to implement the Agreement shall, to the max-
25 imum extent feasible, be issued within 1 year after the

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

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

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

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

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

19 (B) the Commission;

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

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

1 (B) the advice obtained under paragraph
2 (1);
3 (3) a period of 60 calendar days, beginning on
4 the first day on which the requirements set forth in
5 paragraphs (1) and (2) have been met, has expired;
6 and
7 (4) the President has consulted with the com-
8 mittees referred to in paragraph (2) regarding the
9 proposed action during the period referred to in
10 paragraph (3).

11 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**
12 **CEEDINGS.**

13 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—
14 The President is authorized to establish or designate with-
15 in the Department of Commerce an office that shall be
16 responsible for providing administrative assistance to pan-
17 els established under chapter 20 of the Agreement. The
18 office shall not be considered to be an agency for purposes
19 of section 552 of title 5, United States Code.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated for each fiscal year after
22 fiscal year 2011 to the Department of Commerce up to
23 \$150,000 for the establishment and operations of the of-
24 fice established or designated under subsection (a) and for

1 the payment of the United States share of the expenses
2 of panels established under chapter 20 of the Agreement.

3 **SEC. 106. ARBITRATION OF CLAIMS.**

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

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

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

15 (b) EXCEPTIONS.—

16 (1) IN GENERAL.—Sections 1 through 3, this
17 title, and title V take effect on the date of the enact-
18 ment of this Act.

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

1 (c) TERMINATION OF THE AGREEMENT.—On the
2 date on which the Agreement terminates, this Act (other
3 than this subsection and title V) and the amendments
4 made by this Act (other than the amendments made by
5 title V) 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 3.3, 3.5, 3.6,
19 3.26, 3.27, 3.28, and 3.29, and Annex 3.3, of the
20 Agreement.

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

4 (A) IN GENERAL.—Notwithstanding sec-
5 tion 212(a) of the Caribbean Basin Economic
6 Recovery Act (19 U.S.C. 2702(a)), the Presi-
7 dent shall, on the date on which the Agreement
8 enters into force, terminate the designation of
9 Panama as a beneficiary country for purposes
10 of that Act.

11 (B) EXCEPTION.—Notwithstanding sub-
12 paragraph (A), Panama shall be considered a
13 beneficiary country under section 212(a) of the
14 Caribbean Basin Economic Recovery Act, for
15 purposes of—

16 (i) sections 771(7)(G)(ii)(III) and
17 771(7)(H) of the Tariff Act of 1930 (19
18 U.S.C. 1677(7)(G)(ii)(III) and
19 1677(7)(H));

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

24 (iii) section 274(h)(6)(B) of the Inter-
25 nal Revenue Code of 1986.

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

4 (1) such modifications or continuation of any
5 duty,

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

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

12 (4) such additional duties,

13 as the President determines to be necessary or appropriate
14 to maintain the general level of reciprocal and mutually
15 advantageous concessions with respect to Panama pro-
16 vided for by the Agreement.

17 (c) CONVERSION TO AD VALOREM RATES.—For pur-
18 poses of subsections (a) and (b), with respect to any good
19 for which the base rate in the Schedule of the United
20 States to Annex 3.3 of the Agreement is a specific or com-
21 pound rate of duty, the President may substitute for the
22 base rate an ad valorem rate that the President deter-
23 mines to be equivalent to the base rate.

24 (d) TARIFF RATE QUOTAS.—In implementing the
25 tariff rate quotas set forth in Appendix I to the General

1 Notes to the Schedule of the United States to Annex 3.3
2 of the Agreement, the President shall take such action as
3 may be necessary to ensure that imports of agricultural
4 goods do not disrupt the orderly marketing of commodities
5 in the United States.

6 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**
7 **TURAL GOODS.**

8 (a) DEFINITIONS.—In this section:

9 (1) APPLICABLE NTR (MFN) RATE OF DUTY.—

10 The term “applicable NTR (MFN) rate of duty”
11 means, with respect to a safeguard good, a rate of
12 duty equal to the lowest of—

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

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

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

1 (2) SAFEGUARD GOOD.—The term “safeguard
2 good” means a good—

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

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

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

9 (3) 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 3.3 of the Agreement.

14 (4) TRIGGER LEVEL.—

15 (A) IN GENERAL.—The term “trigger
16 level” means—

17 (i) in the case of a safeguard good
18 classified under subheading 0201.10.50,
19 0201.20.80, 0201.30.80, 0202.10.50,
20 0202.20.80, or 0202.30.80 of the HTS—

21 (I) in year 1 of the Agreement,
22 330 metric tons; and

23 (II) in year 2 of the Agreement
24 through year 14 of the Agreement, a
25 quantity equal to 110 percent of the

1 trigger level for that safeguard good
2 for the preceding calendar year; and
3 (ii) in the case of any other safeguard
4 good, 115 percent of the quantity that is
5 provided for that safeguard good in the
6 corresponding calendar year in the applica-
7 ble table contained in Appendix I to the
8 General Notes to the Schedule of the
9 United States to Annex 3.3 of the Agree-
10 ment.

11 (B) RELATIONSHIP TO TABLE.—For pur-
12 poses of subparagraph (A)(ii), year 1 in the ap-
13 plicable table contained in Appendix I to the
14 General Notes to the Schedule of the United
15 States to Annex 3.3 of the Agreement cor-
16 responds to year 1 of the Agreement.

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

22 (6) YEARS OTHER THAN YEAR 1 OF THE
23 AGREEMENT.—Any reference to a year of the Agree-
24 ment subsequent to year 1 of the Agreement shall

1 be deemed to be a reference to the corresponding
2 calendar year in which the Agreement is in force.

3 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

4 (1) IN GENERAL.—In addition to any duty pro-
5 claimed under subsection (a) or (b) of section 201,
6 the Secretary of the Treasury shall assess a duty, in
7 the amount determined under paragraph (2), on a
8 safeguard good imported into the United States in
9 a calendar year if the Secretary determines that,
10 prior to such importation, the total volume of that
11 safeguard good that is imported into the United
12 States in that calendar year exceeds the trigger level
13 for that good for that calendar year.

14 (2) CALCULATION OF ADDITIONAL DUTY.—The
15 additional duty on a safeguard good under this sub-
16 section shall be—

17 (A) in the case of a good classified under
18 subheading 0201.10.50, 0201.20.80,
19 0201.30.80, 0202.10.50, 0202.20.80, or
20 0202.30.80 of the HTS—

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

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

6 (B) in the case of a good classified under
7 subheading 0406.10.08, 0406.10.88,
8 0406.20.91, 0406.30.91, 0406.90.97, or
9 2105.00.20 of the HTS—

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

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

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

22 (i) in year 1 of the Agreement
23 through year 13 of the Agreement, an
24 amount equal to 100 percent of the excess

1 of the applicable NTR (MFN) rate of duty
2 over the schedule rate of duty; and

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

8 (3) NOTICE.—Not later than 60 days after the
9 date on which the Secretary of the Treasury first as-
10 sses an additional duty in a calendar year on a
11 good under this subsection, the Secretary shall no-
12 tify the Government of Panama in writing of such
13 action and shall provide to that Government data
14 supporting the assessment of the additional duty.

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

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

19 (2) chapter 1 of title II of the Trade Act of
20 1974 (19 U.S.C. 2251 et seq.).

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

1 **SEC. 203. RULES OF ORIGIN.**

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

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

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

10 (3) COST OR VALUE.—Any cost or value re-
11 ferred to in this section shall be recorded and main-
12 tained in accordance with the generally accepted ac-
13 counting principles applicable in the territory of the
14 country in which the good is produced (whether
15 Panama or the United States).

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

21 (1) the good is a good wholly obtained or pro-
22 duced entirely in the territory of Panama, the
23 United States, or both;

24 (2) the good—

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

1 (i) each of the nonoriginating mate-
2 rials used in the production of the good
3 undergoes an applicable change in tariff
4 classification specified in Annex 4.1 of the
5 Agreement; or

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

10 (B) satisfies all other applicable require-
11 ments of this section; or

12 (3) the good is produced entirely in the terri-
13 tory of Panama, the United States, or both, exclu-
14 sively from materials described in paragraph (1) or
15 (2).

16 (c) REGIONAL VALUE-CONTENT.—

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

25 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

16 (3) BUILD-UP 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-up method:

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

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

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

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

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

7 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE
8 GOODS.—

9 (A) IN GENERAL.—For purposes of sub-
10 section (b)(2), the regional value-content of an
11 automotive good referred to in Annex 4.1 of the
12 Agreement may be calculated by the importer,
13 exporter, or producer of the good on the basis
14 of the build-down method described in para-
15 graph (2), the build-up method described in
16 paragraph (3), or the following net cost method:

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

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

18 (i) AUTOMOTIVE GOOD.—The term
19 “automotive good” means a good provided
20 for in any of subheadings 8407.31 through
21 8407.34, subheading 8408.20, heading
22 8409, or any of headings 8701 through
23 8708.

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

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

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

12 (C) MOTOR VEHICLES.—

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

23 (I) with respect to all motor vehi-
24 cles in any one of the categories de-
25 scribed in clause (ii); or

1 (II) with respect to all motor ve-
2 hicles in any such category that are
3 exported to the territory of Panama
4 or the United States.

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

7 (I) is the same model line of
8 motor vehicles, is in the same class of
9 motor vehicles, and is produced in the
10 same plant in the territory of Panama
11 or the United States, as the good de-
12 scribed in clause (i) for which regional
13 value-content is being calculated;

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

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

1 (D) OTHER AUTOMOTIVE GOODS.—For
2 purposes of determining the regional value-con-
3 tent under subparagraph (A) for automotive
4 materials provided for in any of subheadings
5 8407.31 through 8407.34, in subheading
6 8408.20, or in heading 8409, 8706, 8707, or
7 8708, that are produced in the same plant, an
8 importer, exporter, or producer may—

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

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

15 (II) any quarter or month, or

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

18 if the goods were produced during the fis-
19 cal year, quarter, or month that is the
20 basis for the calculation;

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

24 (iii) make a separate determination
25 under clause (i) or (ii) for such goods that

1 are exported to the territory of Panama or
2 the United States.

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

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

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

1 shipping and packing costs, and nonallow-
2 able interest costs that are included in the
3 portion of the total cost allocated to the
4 automotive good; or

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

13 (d) VALUE OF MATERIALS.—

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

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

22 (B) in the case of a material acquired in
23 the territory in which the good is produced, the
24 value, determined in accordance with Articles 1
25 through 8, Article 15, and the corresponding in-

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

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

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

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

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

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

1 (i) The costs of freight, insurance,
2 packing, and all other costs incurred in
3 transporting the material within or be-
4 tween the territory of Panama, the United
5 States, or both, to the location of the pro-
6 ducer.

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

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

18 (B) NONORIGINATING MATERIAL.—The
19 following expenses, if included in the value of a
20 nonoriginating material calculated under para-
21 graph (1), may be deducted from the value of
22 the nonoriginating 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 Panama, 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 Panama, 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 (iv) The cost of originating materials
16 used in the production of the nonorigi-
17 nating material in the territory of Panama,
18 the United States, or both.

19 (e) ACCUMULATION.—

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

1 considered to originate in the territory of such other
2 country.

3 (2) MULTIPLE PRODUCERS.—A good that is
4 produced in the territory of Panama, the United
5 States, or both, by 1 or more producers, is an origi-
6 nating good if the good satisfies the requirements of
7 subsection (b) and all other applicable requirements
8 of this section.

9 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
10 TERIALS.—

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

15 (A) the value of all nonoriginating mate-
16 rials that—

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

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

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

24 (B) the good meets all other applicable re-
25 quirements of this section; and

1 (C) the value of such nonoriginating mate-
2 rials is included in the value of nonoriginating
3 materials for any applicable regional value-con-
4 tent requirement for the good.

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

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

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

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

22 (ii) Mixes and doughs, containing over
23 25 percent by weight of butterfat, not put
24 up for retail sale, provided for in sub-
25 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 heading 1006 that is used in the production
3 of a good provided for in heading 1102 or 1103
4 or subheading 1904.90.

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

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

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

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

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 4.1 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 and
23 finished in the territory of Panama, the United
24 States, or both.

1 (C) FABRIC, YARN, OR FIBER.—For pur-
 2 poses of this paragraph, in the case of a good
 3 that is a fabric, yarn, 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 Panama 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 4.1 of the Agreement, and, if the good
23 is subject to a regional value-content requirement, the
24 value of such packaging materials and containers shall be
25 taken into account as originating or nonoriginating mate-

1 rials, as the case may be, in calculating the regional value-
2 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 Panama 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 Panama 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 Panama or the United States.

24 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
25 SETS.—Notwithstanding the rules set forth in Annex 4.1

1 of the Agreement, goods classifiable as goods put up in
2 sets for retail sale as provided for in General Rule of Inter-
3 pretation 3 of the HTS shall not be considered to be origi-
4 nating 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 Panama 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 PANAMA, THE
18 UNITED STATES, OR BOTH.—The term “good wholly
19 obtained or produced entirely in the territory of
20 Panama, 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 Panama, the United
24 States, or both.

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

4 (C) Goods obtained in the territory of Pan-
5 ama, the United States, or both from live ani-
6 mals.

7 (D) Goods obtained from hunting, trap-
8 ping, fishing, or aquaculture conducted in the
9 territory of Panama, 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 Panama, 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 Panama or the United States
18 by—

19 (i) a vessel that is registered or re-
20 corded with Panama and flying the flag of
21 Panama; 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 Pan-
5 ama and flies the flag of Panama; or

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

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

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

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

23 (J) Waste and scrap derived from—

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

4 (ii) used goods collected in the terri-
5 tory of Panama, 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 Panama, the United States, or both
10 from used goods, and used in the territory of
11 Panama, the United States, or both, in the pro-
12 duction of remanufactured goods.

13 (L) Goods, at any stage of production, pro-
14 duced in the territory of Panama, 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 3.10.4 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 Panama 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 a good that is classified
9 under chapter 84, 85, 87, or 90, or heading 9402,
10 other than a good classified under heading 8418 or
11 8516, and that—

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

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

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

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

23 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

3 (B) any additional subordinate category
4 that is necessary to carry out this title con-
5 sistent with the Agreement.

6 (2) FABRICS, YARNS, OR FIBERS NOT AVAIL-
7 ABLE IN COMMERCIAL QUANTITIES IN THE UNITED
8 STATES.—The President is authorized to proclaim
9 that a fabric, yarn, or fiber is added to the list in
10 Annex 3.25 of the Agreement in an unrestricted
11 quantity, as provided in article 3.25.4(e) of the
12 Agreement.

13 (3) MODIFICATIONS.—

14 (A) IN GENERAL.—Subject to the consulta-
15 tion and layover provisions of section 104, the
16 President may proclaim modifications to the
17 provisions proclaimed under the authority of
18 paragraph (1)(A), other than provisions of
19 chapters 50 through 63 (as included in Annex
20 4.1 of the Agreement).

21 (B) ADDITIONAL PROCLAMATIONS.—Not-
22 withstanding subparagraph (A), and subject to
23 the consultation and layover provisions of sec-
24 tion 104, the President may proclaim before the
25 end of the 1-year period beginning on the date

1 on which the Agreement enters into force,
2 modifications to correct any typographical, cler-
3 ical, or other nonsubstantive technical error re-
4 garding the provisions of chapters 50 through
5 63 (as included in Annex 4.1 of the Agree-
6 ment).

7 (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-
8 ABLE IN COMMERCIAL QUANTITIES IN PANAMA AND
9 THE UNITED STATES.—

10 (A) IN GENERAL.—Notwithstanding para-
11 graph (3)(A), the list of fabrics, yarns, and fi-
12 bers set forth in Annex 3.25 of the Agreement
13 may be modified as provided for in this para-
14 graph.

15 (B) DEFINITIONS.—In this paragraph:

16 (i) INTERESTED ENTITY.—The term
17 “interested entity” means the Government
18 of Panama, a potential or actual purchaser
19 of a textile or apparel good, or a potential
20 or actual supplier of a textile or apparel
21 good.

22 (ii) DAY; DAYS.—All references to
23 “day” and “days” exclude Saturdays, Sun-
24 days, and legal holidays observed by the
25 Government of the United States.

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

3 (i) IN GENERAL.—An interested entity
4 may request the President to determine
5 that a fabric, yarn, or fiber is not available
6 in commercial quantities in a timely man-
7 ner in Panama and the United States and
8 to add that fabric, yarn, or fiber to the list
9 in Annex 3.25 of the Agreement in a re-
10 stricted or unrestricted quantity.

11 (ii) DETERMINATIONS.—After receiv-
12 ing a request under clause (i), the Presi-
13 dent may determine whether—

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

18 (II) any interested entity objects
19 to the request.

20 (iii) PROCLAMATION AUTHORITY.—
21 The President may, within the time peri-
22 ods specified in clause (iv), proclaim that
23 the fabric, yarn, or fiber that is the subject
24 of the request is added to the list in Annex
25 3.25 of the Agreement in an unrestricted

1 quantity, or in any restricted quantity that
2 the President may establish, if the Presi-
3 dent has determined under clause (ii)
4 that—

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

9 (II) no interested entity has ob-
10 jected to the request.

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

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

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

24 (v) EFFECTIVE DATE.—Notwith-
25 standing section 103(a)(2), a proclamation

1 made under clause (iii) shall take effect on
2 the date on which the text of the proclama-
3 tion is published in the Federal Register.

4 (vi) ELIMINATION OF RESTRICTION.—

5 Not later than 6 months after proclaiming
6 under clause (iii) that a fabric, yarn, or
7 fiber is added to the list in Annex 3.25 of
8 the Agreement in a restricted quantity, the
9 President may eliminate the restriction if
10 the President determines that the fabric,
11 yarn, or fiber is not available in commer-
12 cial quantities in a timely manner in Pan-
13 ama and the United States.

14 (D) DEEMED APPROVAL OF REQUEST.—If,
15 after an interested entity submits a request
16 under subparagraph (C)(i), the President does
17 not, within the applicable time period specified
18 in subparagraph (C)(iv), make a determination
19 under subparagraph (C)(ii) regarding the re-
20 quest, the fabric, yarn, or fiber that is the sub-
21 ject of the request shall be considered to be
22 added, in an unrestricted quantity, to the list in
23 Annex 3.25 of the Agreement beginning—

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

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

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

7 (i) IN GENERAL.—Subject to clause
8 (ii), an interested entity may request the
9 President to restrict the quantity of, or re-
10 move from the list in Annex 3.25 of the
11 Agreement, any fabric, yarn, or fiber—

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

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

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

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

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

17 (F) PROCEDURES.—The President shall
18 establish procedures—

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

22 (ii) providing an opportunity for inter-
23 ested entities to submit comments and sup-
24 porting evidence before the President

1 makes a determination under subpara-
2 graph (C) (ii) or (vi) or (E)(iii).

3 **SEC. 204. CUSTOMS USER FEES.**

4 Section 13031(b) of the Consolidated Omnibus Budg-
5 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is
6 amended by adding after paragraph (20) the following:

7 “(21) No fee may be charged under subsection (a)(9)
8 or (10) with respect to goods that qualify as originating
9 goods under section 203 of the United States–Panama
10 Trade Promotion Agreement Implementation Act. Any
11 service for which an exemption from such fee is provided
12 by reason of this paragraph may not be funded with
13 money contained in the Customs User Fee Account.”.

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

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

20 (1) in subsection (c)—

21 (A) by redesignating paragraph (13) as
22 paragraph (14); and

23 (B) by inserting after paragraph (12) the
24 following new paragraph:

1 “(13) PRIOR DISCLOSURE REGARDING CLAIMS
2 UNDER THE UNITED STATES–PANAMA 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 Panama 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 “(1) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
16 UNITED STATES–PANAMA 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 Panama
21 TPA certification of origin (as defined in section
22 508 of this Act) that a good exported from the
23 United States qualifies as an originating good under
24 the rules of origin provided for in section 203 of the
25 United States–Panama Trade Promotion Agreement

1 Implementation Act. The procedures and penalties
2 of this section that apply to a violation of subsection
3 (a) also apply to a violation of this subsection.

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

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

15 “(A) the information was correct at the
16 time it was provided in a Panama TPA certifi-
17 cation of origin but was later rendered incorrect
18 due to a change in circumstances; and

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

23 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-
24 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 “(1) DENIAL OF PREFERENTIAL TARIFF TREATMENT
4 UNDER THE UNITED STATES–PANAMA TRADE PRO-
5 MOTION AGREEMENT.—If U.S. Customs and Border Pro-
6 tection or U.S. Immigration and Customs Enforcement of
7 the Department of Homeland Security finds indications
8 of a pattern of conduct by an importer, exporter, or pro-
9 ducer of false or unsupported representations that goods
10 qualify under the rules of origin provided for in section
11 203 of the United States–Panama 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–Panama 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–Panama 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 (k) as sub-
9 section (l);

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

12 “(k) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
13 PORTED UNDER THE UNITED STATES–PANAMA 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) PANAMA TPA CERTIFICATION OF ORI-
6 GIN.—The term ‘Panama TPA certification of
7 origin’ means the certification established under
8 article 4.15 of the United States–Panama
9 Trade Promotion Agreement that a good quali-
10 fies as an originating good under such Agree-
11 ment.

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

21 “(3) RETENTION PERIOD.—The person who
22 issues a Panama TPA certification of origin shall
23 keep the records and supporting documents relating
24 to that certification of origin for a period of at least

1 5 years after the date on which the certification is
 2 issued.”; and

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

5 **SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE**
 6 **OR APPAREL GOODS.**

7 (a) ACTION DURING VERIFICATION.—

8 (1) IN GENERAL.—If the Secretary of the
 9 Treasury requests the Government of Panama to
 10 conduct a verification pursuant to article 3.21 of the
 11 Agreement for purposes of making a determination
 12 under paragraph (2), the President may direct the
 13 Secretary to take appropriate action described in
 14 subsection (b) while the verification is being con-
 15 ducted.

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

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

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

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

3 (ii) is a good of Panama,
4 is accurate.

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

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

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

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

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

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

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

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

24 (4) denial of entry into the United States of
25 any textile or apparel good exported or produced by

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

7 (c) ACTION ON COMPLETION OF A VERIFICATION.—

8 On completion of a verification under subsection (a), the
9 President may direct the Secretary of the Treasury to take
10 appropriate action described in subsection (d) until such
11 time as the Secretary receives information sufficient to
12 make the determination under subsection (a)(2) or until
13 such earlier date as the President may direct.

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

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

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

1 treatment that has been made with respect to
2 any such good; or

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

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

20 (e) PUBLICATION OF NAME OF PERSON.—In accord-
21 ance with article 3.21.9 of the Agreement, the Secretary
22 of the Treasury may publish the name of any person that
23 the Secretary has determined—

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

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

8 **SEC. 209. REGULATIONS.**

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

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

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

13 (3) any proclamation issued under section
14 203(o).

15 **TITLE III—RELIEF FROM**
16 **IMPORTS**

17 **SEC. 301. DEFINITIONS.**

18 In this title:

19 (1) **PANAMANIAN ARTICLE.**—The term “Pan-
20 amanian article” means an article that qualifies as
21 an originating good under section 203(b).

22 (2) **PANAMANIAN TEXTILE OR APPAREL ARTI-**
23 **CLE.**—The term “Panamanian textile or apparel ar-
24 ticle” means a textile or apparel good (as defined in
25 section 3(4)) that is a Panamanian article.

1 **Subtitle A—Relief From Imports**
2 **Benefitting From the Agreement**

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

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

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

1 (c) APPLICABLE PROVISIONS.—The following provi-
2 sions of section 202 of the Trade Act of 1974 (19 U.S.C.
3 2252) apply with respect to any investigation initiated
4 under subsection (b):

5 (1) Paragraphs (1)(B) and (3) of subsection
6 (b).

7 (2) Subsection (c).

8 (3) Subsection (i).

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

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

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

20 (b) APPLICABLE PROVISIONS.—For purposes of this
21 subtitle, the provisions of paragraphs (1), (2), and (3) of
22 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
23 1330(d) (1), (2), and (3)) shall be applied with respect
24 to determinations and findings made under this section

1 as if such determinations and findings were made under
2 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

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

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

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

23 (3) VOTING; SEPARATE VIEWS.—Only those
24 members of the Commission who voted in the af-
25 firmative under subsection (a) are eligible to vote on

1 the proposed action to remedy or prevent the injury
2 found by the Commission. Members of the Commis-
3 sion who did not vote in the affirmative may submit,
4 in the report required under subsection (d), separate
5 views regarding what action, if any, should be taken
6 to remedy or prevent the injury.

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

12 (1) the determination made under subsection
13 (a) and an explanation of the basis for the deter-
14 mination;

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

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

23 (e) PUBLIC NOTICE.—Upon submitting a report to
24 the President under subsection (d), the Commission shall
25 promptly make public the report (with the exception of

1 information which the Commission determines to be con-
2 fidential) and shall publish a summary of the report in
3 the Federal Register.

4 **SEC. 313. PROVISION OF RELIEF.**

5 (a) IN GENERAL.—Not later than the date that is
6 30 days after the date on which the President receives a
7 report of the Commission in which the Commission's de-
8 termination under section 312(a) is affirmative, or which
9 contains a determination under section 312(a) that the
10 President considers to be affirmative under paragraph (1)
11 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.
12 1330(d)(1)), the President, subject to subsection (b), shall
13 provide relief from imports of the article that is the subject
14 of such determination to the extent that the President de-
15 termines necessary to remedy or prevent the injury found
16 by the Commission and to facilitate the efforts of the do-
17 mestic industry to make a positive adjustment to import
18 competition.

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

23 (c) NATURE OF RELIEF.—

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

4 (A) The suspension of any further reduc-
5 tion provided for under Annex 3.3 of the Agree-
6 ment in the duty imposed on the article.

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

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

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

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

23 (d) PERIOD OF RELIEF.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 any import relief that the President provides under

1 this section may not, in the aggregate, be in effect
2 for more than 4 years.

3 (2) EXTENSION.—

4 (A) IN GENERAL.—If the initial period for
5 any import relief provided under this section is
6 less than 4 years, the President, after receiving
7 a determination from the Commission under
8 subparagraph (B) that is affirmative, or which
9 the President considers to be affirmative under
10 paragraph (1) of section 330(d) of the Tariff
11 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-
12 tend the effective period of any import relief
13 provided under this section, subject to the limi-
14 tation under paragraph (1), if the President de-
15 termines that—

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

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

23 (B) ACTION BY COMMISSION.—

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

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

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

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

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

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

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

15 (2) the rate of duty for that article after De-
16 cember 31 of the year in which such termination oc-
17 curs shall be, at the discretion of the President, ei-
18 ther—

19 (A) the applicable rate of duty for that ar-
20 ticle set forth in the Schedule of the United
21 States to Annex 3.3 of the Agreement; or

22 (B) the rate of duty resulting from the
23 elimination of the tariff in equal annual stages
24 ending on the date set forth in the Schedule of

1 the United States to Annex 3.3 of the Agree-
2 ment for the elimination of the tariff.

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

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

7 (A) subtitle B; or

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

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

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

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

17 (b) EXCEPTION.—If an article for which relief is pro-
18 vided under this subtitle is an article for which the period
19 for tariff elimination, set forth in the Schedule of the
20 United States to Annex 3.3 of the Agreement, is greater
21 than 10 years, no relief under this subtitle may be pro-
22 vided for that article after the date on which that period
23 ends.

1 **SEC. 315. COMPENSATION AUTHORITY.**

2 For purposes of section 123 of the Trade Act of 1974
 3 (19 U.S.C. 2133), any import relief provided by the Presi-
 4 dent under section 313 shall be treated as action taken
 5 under chapter 1 of title II of such Act (19 U.S.C. 2251
 6 et seq.).

7 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

10 (1) by striking “and”; and

11 (2) by inserting before the period at the end “,
 12 and title III of the United States–Panama Trade
 13 Promotion Agreement Implementation Act”.

14 **Subtitle B—Textile and Apparel**
 15 **Safeguard Measures**

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

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

24 (b) PUBLICATION OF REQUEST.—If the President de-
 25 termines that the request under subsection (a) provides
 26 the information necessary for the request to be considered,

1 the President shall publish in the Federal Register a no-
2 tice of commencement of consideration of the request, and
3 notice seeking public comments regarding the request. The
4 notice shall include a summary of the request and the
5 dates by which comments and rebuttals must be received.

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

7 (a) DETERMINATION.—

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

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

21 (A) shall examine the effect of increased
22 imports on the domestic industry, as reflected
23 in changes in such relevant economic factors as
24 output, productivity, utilization of capacity, in-
25 ventories, market share, exports, wages, em-

1 ployment, domestic prices, profits, and invest-
2 ment, no one of which is necessarily decisive;
3 and

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

8 (3) DEADLINE FOR DETERMINATION.—The
9 President shall make the determination under para-
10 graph (1) not later than 30 days after the comple-
11 tion of any consultations held pursuant to article
12 3.24.4 of the Agreement.

13 (b) PROVISION OF RELIEF.—

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

22 (2) NATURE OF RELIEF.—The relief that the
23 President is authorized to provide under this sub-
24 section with respect to imports of an article is an in-

1 crease in the rate of duty imposed on the article to
2 a level that does not exceed the lesser of—

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

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

10 **SEC. 323. PERIOD OF RELIEF.**

11 (a) IN GENERAL.—Subject to subsection (b), any im-
12 port relief that the President provides under section
13 322(b) may not, in the aggregate, be in effect for more
14 than 3 years.

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

21 (1) the import relief continues to be necessary
22 to remedy or prevent serious damage and to facili-
23 tate adjustment by the domestic industry to import
24 competition; and

1 (2) there is evidence that the industry is mak-
2 ing a positive adjustment to import competition.

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

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

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

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

10 (A) subtitle A; or

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

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

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

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

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

22 **SEC. 327. COMPENSATION AUTHORITY.**

23 For purposes of section 123 of the Trade Act of 1974
24 (19 U.S.C. 2133), any import relief provided by the Presi-
25 dent under this subtitle shall be treated as action taken

1 under chapter 1 of title II of such Act (19 U.S.C. 2251
2 et seq.).

3 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

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

16 **Subtitle C—Cases Under Title II of**
17 **the Trade Act of 1974**

18 **SEC. 331. FINDINGS AND ACTION ON PANAMANIAN ARTI-**

19 **CLES.**

20 (a) EFFECT OF IMPORTS.—If, in any investigation
21 initiated under chapter 1 of title II of the Trade Act of
22 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
23 affirmative determination (or a determination which the
24 President may treat as an affirmative determination under
25 such chapter by reason of section 330(d) of the Tariff Act

1 of 1930 (19 U.S.C. 1330(d))), the Commission shall also
 2 find (and report to the President at the time such injury
 3 determination is submitted to the President) whether im-
 4 ports of the Panamanian article are a substantial cause
 5 of serious injury or threat thereof.

6 (b) **PRESIDENTIAL DETERMINATION REGARDING IM-**
 7 **PORTS OF PANAMANIAN ARTICLES.**—In determining the
 8 nature and extent of action to be taken under chapter 1
 9 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et
 10 seq.), the President may exclude from the action Panama-
 11 nian articles with respect to which the Commission has
 12 made a negative finding under subsection (a).

13 **TITLE IV—MISCELLANEOUS**

14 **SEC. 401. ELIGIBLE PRODUCTS.**

15 Section 308(4)(A) of the Trade Agreements Act of
 16 1979 (19 U.S.C. 2518(4)(A)) is amended—

17 (1) by striking “or” at the end of clause (viii);

18 (2) by striking the period at the end of clause
 19 (ix) and inserting “; or”; and

20 (3) by adding at the end the following new
 21 clause:

22 “(x) a party to the United States—
 23 Panama Trade Promotion Agreement, a
 24 product or service of that country or in-
 25 strumentality which is covered under that

1 agreement for procurement by the United
2 States.”.

3 **SEC. 402. MODIFICATION TO THE CARIBBEAN BASIN ECO-**
4 **NOMIC RECOVERY ACT.**

5 (a) IN GENERAL.—Section 212(b) of the Caribbean
6 Basin Economic Recovery Act (19 U.S.C. 2702(b)) is
7 amended by striking “Panama” from the list of countries
8 eligible for designation as beneficiary countries.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) takes effect on the date on which the Presi-
11 dent terminates the designation of Panama as a bene-
12 ficiary country pursuant to section 201(a)(3) of this Act.

13 **TITLE V—OFFSETS**

14 **SEC. 501. EXTENSION OF CUSTOMS USER FEES.**

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

18 “(D) Notwithstanding subparagraph (B)(i), fees may
19 be charged under paragraphs (1) through (8) of sub-
20 section (a) during the period beginning on September 1,
21 2021, and ending on September 30, 2021.”.

22 **SEC. 502. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
23 **TAXES.**

24 Notwithstanding section 6655 of the Internal Rev-
25 enue Code of 1986, in the case of a corporation with assets

1 of not less than \$1,000,000,000 (determined as of the end
2 of the preceding taxable year)—

3 (1) the amount of any required installment of
4 corporate estimated tax which is otherwise due in
5 July, August, or September of 2012 shall be in-
6 creased by 0.25 percent of such amount (determined
7 without regard to any increase in such amount not
8 contained in such Code);

9 (2) the amount of any required installment of
10 corporate estimated tax which is otherwise due in
11 July, August, or September of 2016 shall be in-
12 creased by 0.25 percent of such amount (determined
13 without regard to any increase in such amount not
14 contained in such Code); and

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

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A BILL

To implement the United States–Panama Trade
Promotion Agreement.

OCTOBER 11, 2011

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