

112TH CONGRESS
1ST SESSION

H. R. 3078

AN ACT

To implement the United States–Colombia Trade Promotion
Agreement.

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

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

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

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

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

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

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

TITLE II—CUSTOMS PROVISIONS

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

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefitting From the Agreement

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

Subtitle B—Textile and Apparel Safeguard Measures

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

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

- Sec. 331. Findings and action on Colombian articles.

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

TITLE V—EXTENSION OF ANDEAN TRADE PREFERENCE ACT

- Sec. 501. Extension of Andean Trade Preference Act.

TITLE VI—OFFSETS

- Sec. 601. Elimination of certain NAFTA customs fees exemption.
- Sec. 602. Extension of customs user fees.
- Sec. 603. Time for payment of corporate estimated taxes.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

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

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

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

1 (4) to lay the foundation for further coopera-
2 tion to expand and enhance the benefits of the
3 Agreement.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) **AGREEMENT.**—The term “Agreement”
7 means the United States–Colombia Trade Promotion
8 Agreement approved by Congress under section
9 101(a)(1).

10 (2) **COMMISSION.**—The term “Commission”
11 means the United States International Trade Com-
12 mission.

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

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

1 **TITLE I—APPROVAL OF, AND**
2 **GENERAL PROVISIONS RE-**
3 **LATING TO, THE AGREEMENT**

4 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**
5 **AGREEMENT.**

6 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
7 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of
8 the Bipartisan Trade Promotion Authority Act of 2002
9 (19 U.S.C. 3805) and section 151 of the Trade Act of
10 1974 (19 U.S.C. 2191), Congress approves—

11 (1) the United States–Colombia Trade Pro-
12 motion Agreement entered into on November 22,
13 2006, with the Government of Colombia, as amend-
14 ed on June 28, 2007, by the United States and Co-
15 lombia, and submitted to Congress on October 3,
16 2011; and

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

20 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE
21 AGREEMENT.—At such time as the President determines
22 that Colombia has taken measures necessary to comply
23 with those provisions of the Agreement that are to take
24 effect on the date on which the Agreement enters into
25 force, the President is authorized to exchange notes with

1 the Government of Colombia providing for the entry into
2 force, on or after January 1, 2012, of the Agreement with
3 respect to the United States.

4 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**
5 **STATES AND STATE LAW.**

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

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

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

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

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

19 unless specifically provided for in this Act.

20 (b) RELATIONSHIP OF AGREEMENT TO STATE
21 LAW.—

22 (1) LEGAL CHALLENGE.—No State law, or the
23 application thereof, may be declared invalid as to
24 any person or circumstance on the ground that the
25 provision or application is inconsistent with the

1 Agreement, except in an action brought by the
2 United States for the purpose of declaring such law
3 or application invalid.

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

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

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

10 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-
11 VATE REMEDIES.—No person other than the United
12 States—

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

16 (2) may challenge, in any action brought under
17 any provision of law, any action or inaction by any
18 department, agency, or other instrumentality of the
19 United States, any State, or any political subdivision
20 of a State, on the ground that such action or inac-
21 tion is inconsistent with the Agreement.

22 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**
23 **ENTRY INTO FORCE AND INITIAL REGULA-**
24 **TIONS.**

25 (a) IMPLEMENTING ACTIONS.—

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

3 (A) the President may proclaim such ac-
4 tions, and

5 (B) other appropriate officers of the
6 United States Government may issue such reg-
7 ulations,

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

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

22 (3) WAIVER OF 15-DAY RESTRICTION.—The 15-
23 day restriction contained in paragraph (2) on the
24 taking effect of proclaimed actions is waived to the
25 extent that the application of such restriction would

1 prevent the taking effect on the date on which the
2 Agreement enters into force of any action pro-
3 claimed under this section.

4 (b) INITIAL REGULATIONS.—Initial regulations nec-
5 essary or appropriate to carry out the actions required by
6 or authorized under this Act or proposed in the statement
7 of administrative action submitted under section
8 101(a)(2) to implement the Agreement shall, to the max-
9 imum extent feasible, be issued within 1 year after the
10 date on which the Agreement enters into force. In the case
11 of any implementing action that takes effect on a date
12 after the date on which the Agreement enters into force,
13 initial regulations to carry out that action shall, to the
14 maximum extent feasible, be issued within 1 year after
15 such effective date.

16 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**
17 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**
18 **TIONS.**

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

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

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

4 (B) the Commission;

5 (2) the President has submitted to the Com-
6 mittee on Finance of the Senate and the Committee
7 on Ways and Means of the House of Representatives
8 a report that sets forth—

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

11 (B) the advice obtained under paragraph
12 (1);

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

17 (4) the President has consulted with the com-
18 mittees referred to in paragraph (2) regarding the
19 proposed action during the period referred to in
20 paragraph (3).

21 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**
22 **CEEDINGS.**

23 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—
24 The President is authorized to establish or designate with-
25 in the Department of Commerce an office that shall be

1 responsible for providing administrative assistance to pan-
2 els established under chapter 21 of the Agreement. The
3 office shall not be considered to be an agency for purposes
4 of section 552 of title 5, United States Code.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated for each fiscal year after
7 fiscal year 2011 to the Department of Commerce up to
8 \$262,500 for the establishment and operations of the of-
9 fice established or designated under subsection (a) and for
10 the payment of the United States share of the expenses
11 of panels established under chapter 21 of the Agreement.

12 **SEC. 106. ARBITRATION OF CLAIMS.**

13 The United States is authorized to resolve any claim
14 against the United States covered by article
15 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agree-
16 ment, pursuant to the Investor-State Dispute Settlement
17 procedures set forth in section B of chapter 10 of the
18 Agreement.

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

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

24 (b) EXCEPTIONS.—

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

4 (2) CERTAIN AMENDATORY PROVISIONS.—The
5 amendments made by sections 204, 205, 207, and
6 401 of this Act take effect on the date of the enact-
7 ment of this Act and apply with respect to Colombia
8 on the date on which the Agreement enters into
9 force.

10 (c) TERMINATION OF THE AGREEMENT.—On the
11 date on which the Agreement terminates, this Act (other
12 than this subsection and titles V and VI) and the amend-
13 ments made by this Act (other than the amendments made
14 by titles V and VI) shall cease to have effect.

15 **TITLE II—CUSTOMS PROVISIONS**

16 **SEC. 201. TARIFF MODIFICATIONS.**

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

19 (1) PROCLAMATION AUTHORITY.—The Presi-
20 dent may proclaim—

21 (A) such modifications or continuation of
22 any duty,

23 (B) such continuation of duty-free or ex-
24 cise treatment, or

25 (C) such additional duties,

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

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

11 (3) EFFECT ON ATPA STATUS.—Notwith-
12 standing section 203(a)(1) of the Andean Trade
13 Preference Act (19 U.S.C. 3202(a)(1)), the Presi-
14 dent shall, on the date on which the Agreement en-
15 ters into force, terminate the designation of Colom-
16 bia as a beneficiary country for purposes of that
17 Act.

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

21 (1) such modifications or continuation of any
22 duty,

23 (2) such modifications as the United States
24 may agree to with Colombia regarding the staging of

1 any duty treatment set forth in Annex 2.3 of the
2 Agreement,

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

5 (4) such additional duties,

6 as the President determines to be necessary or appropriate
7 to maintain the general level of reciprocal and mutually
8 advantageous concessions with respect to Colombia pro-
9 vided for by the Agreement.

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

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

1 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**
2 **TURAL GOODS.**

3 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

25 (3) SAFEGUARD GOOD.—The term “safeguard
26 good” means a good—

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

3 (B) that qualifies as an originating good
4 under section 203, except that operations per-
5 formed in or material obtained from the United
6 States shall be considered as if the operations
7 were performed in, or the material was obtained
8 from, a country that is not a party to the
9 Agreement; and

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

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

17 (5) YEARS OTHER THAN YEAR 1 OF THE
18 AGREEMENT.—Any reference to a year of the Agree-
19 ment subsequent to year 1 of the Agreement shall
20 be deemed to be a reference to the corresponding
21 calendar year in which the Agreement is in force.

22 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

23 (1) IN GENERAL.—In addition to any duty pro-
24 claimed under subsection (a) or (b) of section 201,
25 the Secretary of the Treasury shall assess a duty, in

1 the amount determined under paragraph (2), on a
2 safeguard good imported into the United States in
3 a calendar year if the Secretary determines that,
4 prior to such importation, the total volume of that
5 safeguard good that is imported into the United
6 States in that calendar year exceeds 140 percent of
7 the volume that is provided for that safeguard good
8 in the corresponding year in the applicable table
9 contained in Appendix I of the General Notes to the
10 Schedule of the United States to Annex 2.3 of the
11 Agreement. For purposes of this subsection, year 1
12 in the table means year 1 of the Agreement.

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

16 (A) in year 1 of the Agreement through
17 year 4 of the Agreement, an amount equal to
18 100 percent of the excess of the applicable NTR
19 (MFN) rate of duty over the schedule rate of
20 duty;

21 (B) in year 5 of the Agreement through
22 year 7 of the Agreement, an amount equal to
23 75 percent of the excess of the applicable NTR
24 (MFN) rate of duty over the schedule rate of
25 duty; and

1 (C) in year 8 of the Agreement through
2 year 9 of the Agreement, an amount equal to
3 50 percent of the excess of the applicable NTR
4 (MFN) rate of duty over the schedule rate of
5 duty.

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

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

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

17 (2) chapter 1 of title II of the Trade Act of
18 1974 (19 U.S.C. 2251 et seq.).

19 (d) TERMINATION.—The assessment of an additional
20 duty on a good under subsection (b) shall cease to apply
21 to that good on the date on which duty-free treatment
22 must be provided to that good under the Schedule of the
23 United States to Annex 2.3 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 Co-
15 lombia 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 Colombia, the
23 United States, or both;

24 (2) the good—

25 (A) is produced entirely in the territory of
26 Colombia, 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 3-A or
5 Annex 4.1 of the Agreement; or

6 (ii) the good otherwise satisfies any
7 applicable regional value-content or other
8 requirements specified in Annex 3-A or
9 Annex 4.1 of the 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 Colombia, 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 shall be calculated by the importer,
13 exporter, or producer of the good, on the basis
14 of the following net cost method:

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

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

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

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

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

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

9 (C) MOTOR VEHICLES.—

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

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

23 (II) with respect to all motor ve-
24 hicles in any such category that are

1 exported to the territory of the United
2 States or Colombia.

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

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

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

19 (III) is the same model line of
20 motor vehicles produced in the terri-
21 tory of Colombia or the United States
22 as the good described in clause (i) for
23 which regional value-content is being
24 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 Colombia
2 or 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 Colombia, 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 Colombia, 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 Colombia, the United
2 States, or both, to the location of the pro-
3 ducer.

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

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

15 (iv) The cost of originating materials
16 used in the production of the nonorigi-
17 nating material in the territory of Colom-
18 bia, 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 Colombia 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 Colombia, 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)(i) 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 (ii) the good meets all other applicable re-
25 quirements of this section; and

1 (iii) 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; or

5 (B) the good meets the requirements set
6 forth in paragraph 2 of Annex 4.6 of the Agree-
7 ment.

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

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

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

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

1 (ii) Mixes and doughs, containing over
2 25 percent by weight of butterfat, not put
3 up for retail sale, provided for in sub-
4 heading 1901.20.

5 (iii) Dairy preparations containing
6 over 10 percent by weight of milk solids
7 provided for in subheading 1901.90 or
8 2106.90.

9 (iv) Goods provided for in heading
10 2105.

11 (v) Beverages containing milk pro-
12 vided for in subheading 2202.90.

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

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

1 (D) A nonoriginating material provided for
2 in heading 0901 or 2101 that is used in the
3 production of a good provided for in heading
4 0901 or 2101.

5 (E) A nonoriginating material provided for
6 in chapter 15 that is used in the production of
7 a good provided for in any of headings 1501
8 through 1508, or any of headings 1511 through
9 1515.

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

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

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

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

3 (3) TEXTILE OR APPAREL GOODS.—

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

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

17 (ii) the yarns are those described in
18 section 204(b)(3)(B)(vi)(IV) of the Andean
19 Trade Preference Act (19 U.S.C.
20 3203(b)(3)(B)(vi)(IV)) (as in effect on
21 February 12, 2011).

22 (B) CERTAIN TEXTILE OR APPAREL
23 GOODS.—A textile or apparel good containing
24 elastomeric yarns in the component of the good
25 that determines the tariff classification of the

1 good shall be considered to be an originating
2 good only if such yarns are wholly formed in
3 the territory of Colombia, the United States, or
4 both.

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

11 (g) FUNGIBLE GOODS AND MATERIALS.—

12 (1) IN GENERAL.—

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

21 (B) INVENTORY MANAGEMENT METHOD.—

22 In this subsection, the term “inventory manage-
23 ment method” means—

24 (i) averaging;

25 (ii) “last-in, first-out”;

1 (iii) “first-in, first-out”; or

2 (iv) any other method—

3 (I) recognized in the generally
4 accepted accounting principles of the
5 country in which the production is
6 performed (whether Colombia or the
7 United States); or

8 (II) otherwise accepted by that
9 country.

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

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

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

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

23 (B) be disregarded in determining whether
24 all the nonoriginating materials used in the pro-
25 duction of the good undergo the applicable

1 change in tariff classification set forth in Annex
2 4.1 of the Agreement.

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

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

11 (B) the quantities and value of the acces-
12 sories, spare parts, or tools are customary for
13 the good.

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

20 (i) PACKAGING MATERIALS AND CONTAINERS FOR
21 RETAIL SALE.—Packaging materials and containers in
22 which a good is packaged for retail sale, if classified with
23 the good, shall be disregarded in determining whether all
24 the nonoriginating materials used in the production of the
25 good undergo the applicable change in tariff classification

1 set forth in Annex 3-A or Annex 4.1 of the Agreement,
2 and, if the good is subject to a regional value-content re-
3 quirement, the value of such packaging materials and con-
4 tainers shall be taken into account as originating or non-
5 originating materials, as the case may be, in calculating
6 the regional value-content of the good.

7 (j) PACKING MATERIALS AND CONTAINERS FOR
8 SHIPMENT.—Packing materials and containers for ship-
9 ment shall be disregarded in determining whether a good
10 is an originating good.

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

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

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

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

4 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
5 SETS.—Notwithstanding the rules set forth in Annex 3-
6 A and Annex 4.1 of the Agreement, goods classifiable as
7 goods put up in sets for retail sale as provided for in Gen-
8 eral Rule of Interpretation 3 of the HTS shall not be con-
9 sidered to be originating goods unless—

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

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

14 (A) in the case of textile or apparel goods,
15 10 percent of the adjusted value of the set; or

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

19 (n) DEFINITIONS.—In this section:

20 (1) ADJUSTED VALUE.—The term “adjusted
21 value” means the value determined in accordance
22 with Articles 1 through 8, Article 15, and the cor-
23 responding interpretive notes, of the Agreement on
24 Implementation of Article VII of the General Agree-
25 ment on Tariffs and Trade 1994 referred to in sec-

1 tion 101(d)(8) of the Uruguay Round Agreements
2 Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary,
3 to exclude any costs, charges, or expenses incurred
4 for transportation, insurance, and related services
5 incident to the international shipment of the mer-
6 chandise from the country of exportation to the
7 place of importation.

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

11 (A) Motor vehicles provided for in sub-
12 heading 8701.20, 8704.10, 8704.22, 8704.23,
13 8704.32, or 8704.90, or heading 8705 or 8706,
14 or motor vehicles for the transport of 16 or
15 more persons provided for in subheading
16 8702.10 or 8702.90.

17 (B) Motor vehicles provided for in sub-
18 heading 8701.10 or any of subheadings
19 8701.30 through 8701.90.

20 (C) Motor vehicles for the transport of 15
21 or fewer persons provided for in subheading
22 8702.10 or 8702.90, or motor vehicles provided
23 for in subheading 8704.21 or 8704.31.

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

1 (3) FUNGIBLE GOOD OR FUNGIBLE MATE-
2 RIAL.—The term “fungible good” or “fungible mate-
3 rial” means a good or material, as the case may be,
4 that is interchangeable with another good or mate-
5 rial for commercial purposes and the properties of
6 which are essentially identical to such other good or
7 material.

8 (4) GENERALLY ACCEPTED ACCOUNTING PRIN-
9 CIPLES.—The term “generally accepted accounting
10 principles”—

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

18 (B) may encompass broad guidelines for
19 general application as well as detailed stand-
20 ards, practices, and procedures.

21 (5) GOOD WHOLLY OBTAINED OR PRODUCED
22 ENTIRELY IN THE TERRITORY OF COLOMBIA, THE
23 UNITED STATES, OR BOTH.—The term “good wholly
24 obtained or produced entirely in the territory of Co-

1 Colombia, the United States, or both” means any of
2 the following:

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

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

9 (C) Goods obtained in the territory of Co-
10 lombia, the United States, or both from live
11 animals.

12 (D) Goods obtained from hunting, trap-
13 ping, fishing, or aquaculture conducted in the
14 territory of Colombia, the United States, or
15 both.

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

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

1 (i) a vessel that is registered or re-
2 corded with Colombia and flying the flag of
3 Colombia; or

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

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

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

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

13 (H)(i) Goods taken by Colombia or a per-
14 son of Colombia from the seabed or subsoil out-
15 side the territorial waters of Colombia, if Co-
16 lombia has rights to exploit such seabed or sub-
17 soil.

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

23 (I) Goods taken from outer space, if the
24 goods are obtained by Colombia or the United
25 States or a person of Colombia or the United

1 States and not processed in the territory of a
2 country other than Colombia or the United
3 States.

4 (J) Waste and scrap derived from—

5 (i) manufacturing or processing oper-
6 ations in the territory of Colombia, the
7 United States, or both; or

8 (ii) used goods collected in the terri-
9 tory of Colombia, the United States, or
10 both, if such goods are fit only for the re-
11 covery of raw materials.

12 (K) Recovered goods derived in the terri-
13 tory of Colombia, the United States, or both,
14 from used goods, and used in the territory of
15 Colombia, the United States, or both, in the
16 production of remanufactured goods.

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

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

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

24 (6) IDENTICAL GOODS.—The term “identical
25 goods” means goods that are the same in all re-

1 specters relevant to the rule of origin that qualifies the
2 goods as originating goods.

3 (7) INDIRECT MATERIAL.—The term “indirect
4 material” means a good used in the production, test-
5 ing, or inspection of another good but not physically
6 incorporated into that other good, or a good used in
7 the maintenance of buildings or the operation of
8 equipment associated with the production of another
9 good, including—

10 (A) fuel and energy;

11 (B) tools, dies, and molds;

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

14 (D) lubricants, greases, compounding ma-
15 terials, and other materials used in production
16 or used to operate equipment or buildings;

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

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

21 (G) catalysts and solvents; and

22 (H) any other good that is not incor-
23 porated into the other good but the use of
24 which in the production of the other good can

1 reasonably be demonstrated to be a part of that
2 production.

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

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

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

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

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

1 (13) NONORIGINATING GOOD OR NONORIGI-
2 NATING MATERIAL.—The term “nonoriginating
3 good” or “nonoriginating material” means a good or
4 material, as the case may be, that does not qualify
5 as originating under this section.

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

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

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

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

24 (18) REASONABLY ALLOCATE.—The term “rea-
25 sonably allocate” means to apportion in a manner

1 that would be appropriate under generally accepted
2 accounting principles.

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

6 (A) the disassembly of used goods into in-
7 dividual parts; and

8 (B) the cleaning, inspecting, testing, or
9 other processing that is necessary for improve-
10 ment to sound working condition of such indi-
11 vidual parts.

12 (20) REMANUFACTURED GOOD.—The term “re-
13 manufactured good” means an industrial good as-
14 sembled in the territory of Colombia or the United
15 States, or both, that is classified under chapter 84,
16 85, 87, or 90 or heading 9402, other than a good
17 classified under heading 8418 or 8516, and that—

18 (A) is entirely or partially comprised of re-
19 covered goods; and

20 (B) has a similar life expectancy and en-
21 joys a factory warranty similar to such a good
22 that is new.

23 (21) TOTAL COST.—

24 (A) IN GENERAL.—The term “total
25 cost”—

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

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

11 (B) OTHER DEFINITIONS.—In this para-
12 graph:

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

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

24 (iii) OTHER COSTS.—The term “other
25 costs” means all costs recorded on the

1 books of the producer that are not product
2 costs or period costs, such as interest.

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

5 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

10 (B) any additional subordinate category
11 that is necessary to carry out this title con-
12 sistent with the Agreement.

13 (2) FABRICS AND YARNS NOT AVAILABLE IN
14 COMMERCIAL QUANTITIES IN THE UNITED
15 STATES.—The President is authorized to proclaim
16 that a fabric or yarn is added to the list in Annex
17 3-B of the Agreement in an unrestricted quantity, as
18 provided in article 3.3.5(e) of the Agreement.

19 (3) MODIFICATIONS.—

20 (A) IN GENERAL.—Subject to the consulta-
21 tion and layover provisions of section 104, the
22 President may proclaim modifications to the
23 provisions proclaimed under the authority of
24 paragraph (1)(A), other than provisions of

1 chapters 50 through 63 (as included in Annex
2 3-A of the Agreement).

3 (B) ADDITIONAL PROCLAMATIONS.—Not-
4 withstanding subparagraph (A), and subject to
5 the consultation and layover provisions of sec-
6 tion 104, the President may proclaim before the
7 end of the 1-year period beginning on the date
8 on which the Agreement enters into force,
9 modifications to correct any typographical, cler-
10 ical, or other nonsubstantive technical error re-
11 garding the provisions of chapters 50 through
12 63 (as included in Annex 3-A of the Agree-
13 ment).

14 (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-
15 ABLE IN COMMERCIAL QUANTITIES IN COLOMBIA
16 AND THE UNITED STATES.—

17 (A) IN GENERAL.—Notwithstanding para-
18 graph (3)(A), the list of fabrics, yarns, and fi-
19 bers set forth in Annex 3-B of the Agreement
20 may be modified as provided for in this para-
21 graph.

22 (B) DEFINITIONS.—In this paragraph:

23 (i) INTERESTED ENTITY.—The term
24 “interested entity” means the Government
25 of Colombia, a potential or actual pur-

1 chaser of a textile or apparel good, or a po-
2 tential or actual supplier of a textile or ap-
3 parel good.

4 (ii) DAY; DAYS.—All references to
5 “day” and “days” exclude Saturdays, Sun-
6 days, and legal holidays observed by the
7 Government of the United States.

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

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

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

21 (I) the fabric, yarn, or fiber is
22 available in commercial quantities in a
23 timely manner in Colombia or the
24 United States; or

1 (II) any interested entity objects
2 to the request.

3 (iii) PROCLAMATION AUTHORITY.—

4 The President may, within the time peri-
5 ods specified in clause (iv), proclaim that
6 the fabric, yarn, or fiber that is the subject
7 of the request is added to the list in Annex
8 3-B of the Agreement in an unrestricted
9 quantity, or in any restricted quantity that
10 the President may establish, if the Presi-
11 dent has determined under clause (ii)
12 that—

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

17 (II) no interested entity has ob-
18 jected to the request.

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

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

1 (II) not later than 44 days after
2 the request is submitted, if the Presi-
3 dent determines, within 30 days after
4 the date on which the request is sub-
5 mitted, that the President does not
6 have sufficient information to make a
7 determination under clause (ii).

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

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

23 (D) DEEMED APPROVAL OF REQUEST.—If,
24 after an interested entity submits a request
25 under subparagraph (C)(i), the President does

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

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

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

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

16 (i) IN GENERAL.—Subject to clause
17 (ii), an interested entity may request the
18 President to restrict the quantity of, or re-
19 move from the list in Annex 3-B of the
20 Agreement, any fabric, yarn, or fiber—

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

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

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

10 (iii) PROCLAMATION AUTHORITY.—
11 Not later than 30 days after the date on
12 which a request under clause (i) is sub-
13 mitted, the President may proclaim an ac-
14 tion provided for under clause (i) if the
15 President determines that the fabric, yarn,
16 or fiber that is the subject of the request
17 is available in commercial quantities in a
18 timely manner in Colombia or the United
19 States.

20 (iv) EFFECTIVE DATE.—A proclama-
21 tion issued under clause (iii) may not take
22 effect earlier than the date that is 6
23 months after the date on which the text of
24 the proclamation is published in the Fed-
25 eral Register.

1 (F) PROCEDURES.—The President shall
2 establish procedures—

3 (i) governing the submission of a re-
4 quest under subparagraphs (C) and (E);
5 and

6 (ii) providing an opportunity for inter-
7 ested entities to submit comments and sup-
8 porting evidence before the President
9 makes a determination under subpara-
10 graph (C) (ii) or (vi) or (E)(iii).

11 **SEC. 204. CUSTOMS USER FEES.**

12 Section 13031(b) of the Consolidated Omnibus Budg-
13 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is
14 amended by adding after paragraph (19), the following:

15 “(20) No fee may be charged under subsection (a)
16 (9) or (10) with respect to goods that qualify as origi-
17 nating goods under section 203 of the United States–Co-
18 lombia Trade Promotion Agreement Implementation Act.
19 Any service for which an exemption from such fee is pro-
20 vided by reason of this paragraph may not be funded with
21 money contained in the Customs User Fee Account.”.

1 **SEC. 205. DISCLOSURE OF INCORRECT INFORMATION;**
2 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**
3 **OF PREFERENTIAL TARIFF TREATMENT.**

4 (a) DISCLOSURE OF INCORRECT INFORMATION.—

5 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)
6 is amended—

7 (1) in subsection (c)—

8 (A) by redesignating paragraph (12) as
9 paragraph (13); and

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

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

24 (2) by adding at the end the following new sub-
25 section:

1 “(k) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
2 UNITED STATES–COLOMBIA TRADE PROMOTION AGREE-
3 MENT.—

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

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

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

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

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

11 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-
12 MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.
13 1514) is amended by adding at the end the following new
14 subsection:

15 “(k) DENIAL OF PREFERENTIAL TARIFF TREAT-
16 MENT UNDER THE UNITED STATES–COLOMBIA TRADE
17 PROMOTION AGREEMENT.—If U.S. Customs and Border
18 Protection or U.S. Immigration and Customs Enforce-
19 ment of the Department of Homeland Security finds indi-
20 cations of a pattern of conduct by an importer, exporter,
21 or producer of false or unsupported representations that
22 goods qualify under the rules of origin provided for in sec-
23 tion 203 of the United States–Colombia Trade Promotion
24 Agreement Implementation Act, U.S. Customs and Border
25 Protection, in accordance with regulations issued by the

1 Secretary of the Treasury, may suspend preferential tariff
2 treatment under the United States–Colombia Trade Pro-
3 motion Agreement to entries of identical goods covered by
4 subsequent representations by that importer, exporter, or
5 producer until U.S. Customs and Border Protection deter-
6 mines that representations of that person are in con-
7 formity with such section 203.”.

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

9 Section 520(d) of the Tariff Act of 1930 (19 U.S.C.
10 1520(d)) is amended in the matter preceding paragraph
11 (1)—

12 (1) by striking “or”; and

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

17 **SEC. 207. RECORDKEEPING REQUIREMENTS.**

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

20 (1) by redesignating subsection (j) as sub-
21 section (k);

22 (2) by inserting after subsection (i) the fol-
23 lowing new subsection:

1 “(j) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
2 PORTED UNDER THE UNITED STATES–COLOMBIA TRADE
3 PROMOTION AGREEMENT.—

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

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

11 “(i) the purchase, cost, and value of,
12 and payment for, the good;

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

17 “(iii) the production of the good in
18 the form in which it was exported.

19 “(B) CTPA CERTIFICATION OF ORIGIN.—
20 The term ‘CTPA certification of origin’ means
21 the certification established under article 4.15
22 of the United States–Colombia Trade Pro-
23 motion Agreement that a good qualifies as an
24 originating good under such Agreement.

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

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

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

18 **SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE**

19 **OR APPAREL GOODS.**

20 (a) ACTION DURING VERIFICATION.—

21 (1) IN GENERAL.—If the Secretary of the
22 Treasury requests the Government of Colombia to
23 conduct a verification pursuant to article 3.2 of the
24 Agreement for purposes of making a determination
25 under paragraph (2), the President may direct the

1 Secretary to take appropriate action described in
2 subsection (b) while the verification is being con-
3 ducted.

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

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

11 (B) a claim that a textile or apparel good
12 exported or produced by such exporter or pro-
13 ducer—

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

16 (ii) is a good of Colombia,
17 is accurate.

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

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

22 (A) any textile or apparel good exported or
23 produced by the person that is the subject of a
24 verification under subsection (a)(1) regarding
25 compliance described in subsection (a)(2)(A), if

1 the Secretary of the Treasury determines that
2 there is insufficient information to support any
3 claim for preferential tariff treatment that has
4 been made with respect to any such good; or

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

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

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

22 (B) the textile or apparel good for which a
23 claim of preferential tariff treatment has been
24 made that is the subject of a verification under
25 subsection (a)(1) regarding a claim described in

1 subsection (a)(2)(B), if the Secretary deter-
2 mines that a person has provided incorrect in-
3 formation to support that claim;

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

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

20 (c) ACTION ON COMPLETION OF A VERIFICATION.—
21 On completion of a verification under subsection (a)(1),
22 the President may direct the Secretary of the Treasury
23 to take appropriate action described in subsection (d) until
24 such time as the Secretary receives information sufficient

1 to make the determination under subsection (a)(2) or until
2 such earlier date as the President may direct.

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

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

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

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

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

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

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

19 **SEC. 209. REGULATIONS.**

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

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

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

24 (3) any proclamation issued under section
25 203(o).

1 **TITLE III—RELIEF FROM**
2 **IMPORTS**

3 **SEC. 301. DEFINITIONS.**

4 In this title:

5 (1) COLOMBIAN ARTICLE.—The term “Colom-
6 bian article” means an article that qualifies as an
7 originating good under section 203(b).

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

12 **Subtitle A—Relief From Imports**
13 **Benefitting From the Agreement**

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

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

24 (b) INVESTIGATION AND DETERMINATION.—Upon
25 the filing of a petition under subsection (a), the Commis-

1 sion, unless subsection (d) applies, shall promptly initiate
2 an investigation to determine whether, as a result of the
3 reduction or elimination of a duty provided for under the
4 Agreement, a Colombian article is being imported into the
5 United States in such increased quantities, in absolute
6 terms or relative to domestic production, and under such
7 conditions that imports of the Colombian article constitute
8 a substantial cause of serious injury or threat thereof to
9 the domestic industry producing an article that is like, or
10 directly competitive with, the imported article.

11 (c) APPLICABLE PROVISIONS.—The following provi-
12 sions of section 202 of the Trade Act of 1974 (19 U.S.C.
13 2252) apply with respect to any investigation initiated
14 under subsection (b):

15 (1) Paragraphs (1)(B) and (3) of subsection
16 (b).

17 (2) Subsection (c).

18 (3) Subsection (i).

19 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No
20 investigation may be initiated under this section with re-
21 spect to any Colombian article if, after the date on which
22 the Agreement enters into force, import relief has been
23 provided with respect to that Colombian article under this
24 subtitle.

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

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

6 (b) APPLICABLE PROVISIONS.—For purposes of this
7 subtitle, the provisions of paragraphs (1), (2), and (3) of
8 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
9 1330(d) (1), (2), and (3)) shall be applied with respect
10 to determinations and findings made under this section
11 as if such determinations and findings were made under
12 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

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

15 (1) IN GENERAL.—If the determination made
16 by the Commission under subsection (a) with respect
17 to imports of an article is affirmative, or if the
18 President may consider a determination of the Com-
19 mission to be an affirmative determination as pro-
20 vided for under paragraph (1) of section 330(d) of
21 the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the
22 Commission shall find, and recommend to the Presi-
23 dent in the report required under subsection (d), the
24 amount of import relief that is necessary to remedy
25 or prevent the injury found by the Commission in
26 the determination and to facilitate the efforts of the

1 domestic industry to make a positive adjustment to
2 import competition.

3 (2) LIMITATION ON RELIEF.—The import relief
4 recommended by the Commission under this sub-
5 section shall be limited to the relief described in sec-
6 tion 313(e).

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

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

21 (1) the determination made under subsection
22 (a) and an explanation of the basis for the deter-
23 mination;

24 (2) if the determination under subsection (a) is
25 affirmative, any findings and recommendations for

1 import relief made under subsection (c) and an ex-
2 planation of the basis for each recommendation; and

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

7 (e) PUBLIC NOTICE.—Upon submitting a report to
8 the President under subsection (d), the Commission shall
9 promptly make public the report (with the exception of
10 information which the Commission determines to be con-
11 fidential) and shall publish a summary of the report in
12 the Federal Register.

13 **SEC. 313. PROVISION OF RELIEF.**

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

1 mestic industry to make a positive adjustment to import
2 competition.

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

7 (c) NATURE OF RELIEF.—

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

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

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

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

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

24 (2) PROGRESSIVE LIBERALIZATION.—If the pe-
25 riod for which import relief is provided under this

1 section is greater than 1 year, the President shall
2 provide for the progressive liberalization (described
3 in article 8.2.2 of the Agreement) of such relief at
4 regular intervals during the period of its application.

5 (d) PERIOD OF RELIEF.—

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

10 (2) EXTENSION.—

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

21 (i) the import relief continues to be
22 necessary to remedy or prevent serious in-
23 jury and to facilitate adjustment by the do-
24 mestic industry to import competition; and

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

4 (B) ACTION BY COMMISSION.—

5 (i) INVESTIGATION.—Upon a petition
6 on behalf of the industry concerned that is
7 filed with the Commission not earlier than
8 the date that is 9 months, and not later
9 than the date that is 6 months, before the
10 date on which any action taken under sub-
11 section (a) is to terminate, the Commission
12 shall conduct an investigation to determine
13 whether action under this section continues
14 to be necessary to remedy or prevent seri-
15 ous injury and whether there is evidence
16 that the industry is making a positive ad-
17 justment to import competition.

18 (ii) NOTICE AND HEARING.—The
19 Commission shall publish notice of the
20 commencement of any proceeding under
21 this subparagraph in the Federal Register
22 and shall, within a reasonable time there-
23 after, hold a public hearing at which the
24 Commission shall afford interested parties
25 and consumers an opportunity to be

1 present, to present evidence, and to re-
2 spond to the presentations of other parties
3 and consumers, and otherwise to be heard.

4 (iii) REPORT.—The Commission shall
5 submit to the President a report on its in-
6 vestigation and determination under this
7 subparagraph not later than 60 days be-
8 fore the action under subsection (a) is to
9 terminate, unless the President specifies a
10 different date.

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

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

18 (1) the rate of duty on that article after such
19 termination and on or before December 31 of the
20 year in which such termination occurs shall be the
21 rate that, according to the Schedule of the United
22 States to Annex 2.3 of the Agreement, would have
23 been in effect 1 year after the provision of relief
24 under subsection (a); and

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

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

8 (B) the rate of duty resulting from the
9 elimination of the tariff in equal annual stages
10 ending on the date set forth in the Schedule of
11 the United States to Annex 2.3 of the Agree-
12 ment for the elimination of the tariff.

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

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

17 (A) subtitle B; or

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

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

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

23 (a) GENERAL RULE.—Subject to subsection (b), no
24 import relief may be provided under this subtitle after the

1 date that is 10 years after the date on which the Agree-
2 ment enters into force.

3 (b) EXCEPTION.—If an article for which relief is pro-
4 vided under this subtitle is an article for which the period
5 for tariff elimination, set forth in the Schedule of the
6 United States to Annex 2.3 of the Agreement, is greater
7 than 10 years, no relief under this subtitle may be pro-
8 vided for that article after the date on which that period
9 ends.

10 **SEC. 315. COMPENSATION AUTHORITY.**

11 For purposes of section 123 of the Trade Act of 1974
12 (19 U.S.C. 2133), any import relief provided by the Presi-
13 dent under section 313 shall be treated as action taken
14 under chapter 1 of title II of such Act (19 U.S.C. 2251
15 et seq.).

16 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

19 (1) by striking “and”; and

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

1 **Subtitle B—Textile and Apparel**
2 **Safeguard Measures**

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

4 (a) IN GENERAL.—A request for action under this
5 subtitle for the purpose of adjusting to the obligations of
6 the United States under the Agreement may be filed with
7 the President by an interested party. Upon the filing of
8 a request, the President shall review the request to deter-
9 mine, from information presented in the request, whether
10 to commence consideration of the request.

11 (b) PUBLICATION OF REQUEST.—If the President de-
12 termines that the request under subsection (a) provides
13 the information necessary for the request to be considered,
14 the President shall publish in the Federal Register a no-
15 tice of commencement of consideration of the request, and
16 notice seeking public comments regarding the request. The
17 notice shall include a summary of the request and the
18 dates by which comments and rebuttals must be received.

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

20 (a) DETERMINATION.—

21 (1) IN GENERAL.—If a positive determination is
22 made under section 321(b), the President shall de-
23 termine whether, as a result of the elimination of a
24 duty under the Agreement, a Colombian textile or
25 apparel article is being imported into the United

1 States in such increased quantities, in absolute
2 terms or relative to the domestic market for that ar-
3 ticle, and under such conditions as to cause serious
4 damage, or actual threat thereof, to a domestic in-
5 dustry producing an article that is like, or directly
6 competitive with, the imported article.

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

9 (A) shall examine the effect of increased
10 imports on the domestic industry, as reflected
11 in changes in such relevant economic factors as
12 output, productivity, utilization of capacity, in-
13 ventories, market share, exports, wages, em-
14 ployment, domestic prices, profits and losses,
15 and investment, no one of which is necessarily
16 decisive; and

17 (B) shall not consider changes in consumer
18 preference or changes in technology in the
19 United States as factors supporting a deter-
20 mination of serious damage or actual threat
21 thereof.

22 (b) PROVISION OF RELIEF.—

23 (1) IN GENERAL.—If a determination under
24 subsection (a) is affirmative, the President may pro-
25 vide relief from imports of the article that is the

1 subject of such determination, as provided in para-
2 graph (2), to the extent that the President deter-
3 mines necessary to remedy or prevent the serious
4 damage and to facilitate adjustment by the domestic
5 industry.

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

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

14 (B) the column 1 general rate of duty im-
15 posed under the HTS on like articles on the
16 day before the date on which the Agreement en-
17 ters into force.

18 **SEC. 323. PERIOD OF RELIEF.**

19 (a) IN GENERAL.—Subject to subsection (b), the im-
20 port relief that the President provides under section
21 322(b) may not be in effect for more than 2 years.

22 (b) EXTENSION.—

23 (1) IN GENERAL.—Subject to paragraph (2),
24 the President may extend the effective period of any
25 import relief provided under this subtitle for a pe-

1 riod of not more than 1 year, if the President deter-
2 mines that—

3 (A) the import relief continues to be nec-
4 essary to remedy or prevent serious damage
5 and to facilitate adjustment by the domestic in-
6 dustry to import competition; and

7 (B) there is evidence that the industry is
8 making a positive adjustment to import com-
9 petition.

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

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

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

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

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

21 (A) subtitle A; or

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

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

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

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

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

10 **SEC. 327. COMPENSATION AUTHORITY.**

11 For purposes of section 123 of the Trade Act of 1974
12 (19 U.S.C. 2133), any import relief provided by the Presi-
13 dent under this subtitle shall be treated as action taken
14 under chapter 1 of title II of such Act (19 U.S.C. 2251
15 et seq.).

16 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

17 The President may not release information received
18 in connection with an investigation or determination under
19 this subtitle which the President considers to be confiden-
20 tial business information unless the party submitting the
21 confidential business information had notice, at the time
22 of submission, that such information would be released by
23 the President, or such party subsequently consents to the
24 release of the information. To the extent a party submits
25 confidential business information, the party shall also pro-
26 vide a nonconfidential version of the information in which

1 the confidential business information is summarized or, if
2 necessary, deleted.

3 **Subtitle C—Cases Under Title II of**
4 **the Trade Act of 1974**

5 **SEC. 331. FINDINGS AND ACTION ON COLOMBIAN ARTI-**
6 **CLES.**

7 (a) EFFECT OF IMPORTS.—If, in any investigation
8 initiated under chapter 1 of title II of the Trade Act of
9 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
10 affirmative determination (or a determination which the
11 President may treat as an affirmative determination under
12 such chapter by reason of section 330(d) of the Tariff Act
13 of 1930 (19 U.S.C. 1330(d)), the Commission shall also
14 find (and report to the President at the time such injury
15 determination is submitted to the President) whether im-
16 ports of the Colombian article are a substantial cause of
17 serious injury or threat thereof.

18 (b) PRESIDENTIAL DETERMINATION REGARDING CO-
19 LOMBIAN ARTICLES.—In determining the nature and ex-
20 tent of action to be taken under chapter 1 of title II of
21 the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Presi-
22 dent may exclude from the action Colombian articles with
23 respect to which the Commission has made a negative
24 finding under subsection (a).

1 **TITLE IV—PROCUREMENT**

2 **SEC. 401. ELIGIBLE PRODUCTS.**

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

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

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

8 (3) by adding at the end the following new
9 clause:

10 “(ix) a party to the United States–Co-
11 lombia Trade Promotion Agreement, a
12 product or service of that country or in-
13 strumentality which is covered under that
14 agreement for procurement by the United
15 States.”.

16 **TITLE V—EXTENSION OF ANDEAN**
17 **TRADE PREFERENCE ACT**

18 **SEC. 501. EXTENSION OF ANDEAN TRADE PREFERENCE**
19 **ACT.**

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

22 (1) in paragraph (1)(A), by striking “February
23 12, 2011” and inserting “July 31, 2013”; and

24 (2) in paragraph (2), by striking “February 12,
25 2011” and inserting “July 31, 2013”.

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

4 (1) in subparagraph (B)—

5 (A) in clause (iii)—

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

9 (ii) in subclause (III)(bb), by striking
10 “and for the succeeding 3-year period” and
11 inserting “and for the succeeding 5-year
12 period”; and

13 (B) in clause (v)(II), by striking “7 suc-
14 ceeding 1-year periods” and inserting “9 suc-
15 ceeding 1-year periods”; and

16 (2) in subparagraph (E)(ii)(II), by striking
17 “February 12, 2011” and inserting “July 31,
18 2013”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to articles entered on or after
22 the 15th day after the date of the enactment of this
23 Act.

24 (2) RETROACTIVE APPLICATION FOR CERTAIN
25 LIQUIDATIONS AND RELIQUIDATIONS.—

1 (A) IN GENERAL.—Notwithstanding sec-
2 tion 514 of the Tariff Act of 1930 (19 U.S.C.
3 1514) or any other provision of law and subject
4 to subparagraph (B), any entry of an article to
5 which duty-free treatment or other preferential
6 treatment under the Andean Trade Preference
7 Act would have applied if the entry had been
8 made on February 12, 2011, that was made—

9 (i) after February 12, 2011, and

10 (ii) before the 15th day after the date

11 of the enactment of this Act,

12 shall be liquidated or reliquidated as though
13 such entry occurred on the date that is 15 days
14 after the date of the enactment of this Act.

15 (B) REQUESTS.—A liquidation or reliqui-
16 dation may be made under subparagraph (A)
17 with respect to an entry only if a request there-
18 for is filed with U.S. Customs and Border Pro-
19 tection not later than 180 days after the date
20 of the enactment of this Act that contains suffi-
21 cient information to enable U.S. Customs and
22 Border Protection—

23 (i) to locate the entry; or

24 (ii) to reconstruct the entry if it can-
25 not be located.

1 (C) PAYMENT OF AMOUNTS OWED.—Any
2 amounts owed by the United States pursuant to
3 the liquidation or reliquidation of an entry of
4 an article under subparagraph (A) shall be
5 paid, without interest, not later than 90 days
6 after the date of the liquidation or reliquidation
7 (as the case may be).

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

11 **TITLE VI—OFFSETS**

12 **SEC. 601. ELIMINATION OF CERTAIN NAFTA CUSTOMS FEES**

13 **EXEMPTION.**

14 (a) IN GENERAL.—Section 13031(b)(1)(A)(i) of the
15 Consolidated Omnibus Budget Reconciliation Act of 1985
16 (19 U.S.C. 58c(b)(1)(A)(i)) is amended to read as follows:

17 “(i) the arrival of any passenger whose jour-
18 ney—

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

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

24 (b) USE OF FEES.—The fees collected as a result of
25 the amendment made by this section shall be deposited

1 in the Customs User Fee Account, shall be available for
2 reimbursement of customs services and inspections costs,
3 and shall be available only to the extent provided in appro-
4 priations Acts.

5 (c) EFFECTIVE DATE.—This section and the amend-
6 ments made by this section shall apply to passengers arriv-
7 ing from Canada, Mexico, or an adjacent island on or after
8 the date that is 15 days after the date of the enactment
9 of this Act.

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

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

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

18 “(ii) Notwithstanding subparagraph (B)(i), fees may
19 be charged under paragraphs (1) through (8) of sub-
20 section (a) during the period beginning on December 9,
21 2020, and ending on August 31, 2021.”.

22 **SEC. 603. 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 2016 shall be in-
6 creased by 0.50 percent of such amount (determined
7 without regard to any increase in such amount not
8 contained in such Code); and

9 (2) the amount of the next required installment
10 after an installment referred to in paragraph (1)
11 shall be appropriately reduced to reflect the amount
12 of the increase by reason of such paragraph.

Passed the House of Representatives October 12,
2011.

Attest:

Clerk.

112TH CONGRESS
1ST SESSION

H. R. 3078

AN ACT

To implement the United States–Colombia Trade
Promotion Agreement.