

112TH CONGRESS  
1ST SESSION

# H. R. 3080

To implement the United States–Korea Free Trade Agreement.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2011

Mr. CANTOR (for himself and Mr. LEVIN) (both by request) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To implement the United States–Korea Free Trade Agreement.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “United States–Korea Free Trade Agreement Implemen-  
6 tation Act”.

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

Sec. 1. Short title.  
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. Rules of origin.
- Sec. 203. Customs user fees.
- Sec. 204. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 205. Reliquidation of entries.
- Sec. 206. Recordkeeping requirements.
- Sec. 207. Enforcement relating to trade in textile or apparel goods.
- Sec. 208. 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—Motor Vehicle Safeguard Measures

- Sec. 321. Motor vehicle safeguard measures.

##### Subtitle C—Textile and Apparel Safeguard Measures

- Sec. 331. Commencement of action for relief.
- Sec. 332. Determination and provision of relief.
- Sec. 333. Period of relief.
- Sec. 334. Articles exempt from relief.
- Sec. 335. Rate after termination of import relief.
- Sec. 336. Termination of relief authority.
- Sec. 337. Compensation authority.
- Sec. 338. Confidential business information.

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

- Sec. 341. Findings and action on Korean articles.

#### TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

#### TITLE V—OFFSETS

Sec. 501. Increase in penalty on paid preparers who fail to comply with earned income tax credit due diligence requirements.

Sec. 502. Requirement for prisons located in the United States to provide information for tax administration.

Sec. 503. Rate for merchandise processing fees.

Sec. 504. Extension of customs user fees.

Sec. 505. 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 Korea en-  
5 tered into under the authority of section 2103(b) of  
6 the Bipartisan Trade Promotion Authority Act of  
7 2002 (19 U.S.C. 3803(b));

8 (2) to secure the benefits of the agreement en-  
9 tered into pursuant to an exchange of letters be-  
10 tween the United States and the Government of  
11 Korea on February 10, 2011;

12 (3) to strengthen and develop economic rela-  
13 tions between the United States and Korea for their  
14 mutual benefit;

15 (4) to establish free trade between the United  
16 States and Korea through the reduction and elimi-  
17 nation of barriers to trade in goods and services and  
18 to investment; and

19 (5) to lay the foundation for further coopera-  
20 tion to expand and enhance the benefits of the  
21 Agreement.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) AGREEMENT.—The term “Agreement”  
4 means the United States–Korea Free Trade Agree-  
5 ment approved by Congress under section 101(a)(1).

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

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

11 (4) KOREA.—The term “Korea” means the Re-  
12 public of Korea.

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

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

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

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

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

3 (1) the United States–Korea Free Trade Agree-  
4 ment entered into on June 30, 2007, with the Gov-  
5 ernment of Korea, and submitted to Congress on  
6 October 3, 2011; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (a) IMPLEMENTING ACTIONS.—

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

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

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

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

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

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

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

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



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

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

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

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

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

19 (B) the Commission;

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

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

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

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

13 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—  
14 The President is authorized to establish or designate with-  
15 in the Department of Commerce an office that shall be  
16 responsible for providing administrative assistance to pan-  
17 els established under chapter 22 of the Agreement. The  
18 office shall not be considered to be an agency for purposes  
19 of section 552 of title 5, United States Code.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated for each fiscal year after  
22 fiscal year 2011 to the Department of Commerce up to  
23 \$750,000 for the establishment and operations of the of-  
24 fice established or designated under subsection (a) and for

1 the payment of the United States share of the expenses  
2 of panels established under chapter 22 of the Agreement.

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

4 The United States is authorized to resolve any claim  
5 against the United States covered by article  
6 11.16.1(a)(i)(C) or article 11.16.1(b)(i)(C) of the Agree-  
7 ment, pursuant to the Investor-State Dispute Settlement  
8 procedures set forth in section B of chapter 11 of the  
9 Agreement.

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

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

15 (b) EXCEPTIONS.—

16 (1) IN GENERAL.—Sections 1 through 3, sec-  
17 tion 207(g), this title, and title V take effect on the  
18 date of the enactment of this Act.

19 (2) CERTAIN AMENDATORY PROVISIONS.—The  
20 amendments made by sections 203, 204, 206, and  
21 401 of this Act take effect on the date of the enact-  
22 ment of this Act and apply with respect to Korea on  
23 the date on which the Agreement enters into force.

24 (c) TERMINATION OF THE AGREEMENT.—On the  
25 date on which the Agreement terminates, this Act (other

1 than this subsection and title V) and the amendments  
2 made by this Act (other than the amendments made by  
3 title V) shall cease to have effect.

## 4 **TITLE II—CUSTOMS PROVISIONS**

### 5 **SEC. 201. TARIFF MODIFICATIONS.**

6 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
7 AGREEMENT.—The President may proclaim—

8 (1) such modifications or continuation of any  
9 duty,

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

12 (3) such additional duties,

13 as the President determines to be necessary or appropriate  
14 to carry out or apply articles 2.3, 2.5, and 2.6, and Annex  
15 2-B, Annex 4-B, and Annex 22-A, of the Agreement.

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

19 (1) such modifications or continuation of any  
20 duty,

21 (2) such modifications as the United States  
22 may agree to with Korea regarding the staging of  
23 any duty treatment set forth in Annex 2-B of the  
24 Agreement,

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

3           (4) such additional duties,  
4 as the President determines to be necessary or appropriate  
5 to maintain the general level of reciprocal and mutually  
6 advantageous concessions with respect to Korea provided  
7 for by the Agreement.

8           (c) CONVERSION TO AD VALOREM RATES.—For pur-  
9 poses of subsections (a) and (b), with respect to any good  
10 for which the base rate in the Schedule of the United  
11 States to Annex 2-B of the Agreement is a specific or com-  
12 pound rate of duty, the President may substitute for the  
13 base rate an ad valorem rate that the President deter-  
14 mines to be equivalent to the base rate.

15           (d) TARIFF TREATMENT OF MOTOR VEHICLES.—  
16 The President may proclaim the following tariff treatment  
17 with respect to the following motor vehicles of Korea:

18           (1) CERTAIN PASSENGER CARS.—In the case of  
19 originating goods of Korea classifiable under sub-  
20 heading 8703.10.10, 8703.10.50, 8703.21.00,  
21 8703.22.00, 8703.23.00, 8703.24.00, 8703.31.00,  
22 8703.32.00, or 8703.33.00 of the HTS that are en-  
23 tered, or withdrawn from warehouse for consump-  
24 tion—

1 (A) the rate of duty for such goods shall  
2 be 2.5 percent for year 1 of the Agreement  
3 through year 4 of the Agreement; and

4 (B) such goods shall be free of duty for  
5 each year thereafter.

6 (2) ELECTRIC MOTOR VEHICLES.—In the case  
7 of originating goods of Korea classifiable under sub-  
8 heading 8703.90.00 of the HTS that are entered, or  
9 withdrawn from warehouse for consumption—

10 (A) the rate of duty for such goods shall  
11 be—

12 (i) 2.0 percent for year 1 of the  
13 Agreement;

14 (ii) 1.5 percent for year 2 of the  
15 Agreement;

16 (iii) 1.0 percent for year 3 of the  
17 Agreement; and

18 (iv) 0.5 percent for year 4 of the  
19 Agreement; and

20 (B) such goods shall be free of duty for  
21 each year thereafter.

22 (3) CERTAIN TRUCKS.—In the case of origi-  
23 nating goods of Korea classifiable under subheading  
24 8704.21.00, 8704.22.50, 8704.23.00, 8704.31.00,  
25 8704.32.00, or 8704.90.00 of the HTS that are en-

1       tered, or withdrawn from warehouse for consump-  
2       tion—

3               (A) the rate of duty for such goods shall  
4       be—

5                   (i) 25 percent for year 1 of the Agree-  
6       ment through year 7 of the Agreement;

7                   (ii) 16.6 percent for year 8 of the  
8       Agreement; and

9                   (iii) 8.3 percent for year 9 of the  
10      Agreement; and

11               (B) such goods shall be free of duty for  
12      each year thereafter.

13      (4) DEFINITIONS.—In this subsection—

14               (A) the term “year 1 of the Agreement”  
15      means the period beginning on the date, in a  
16      calendar year, on which the Agreement enters  
17      into force and ending on December 31 of that  
18      calendar year; and

19               (B) the terms “year 2 of the Agreement”,  
20      “year 3 of the Agreement”, “year 4 of the  
21      Agreement”, “year 5 of the Agreement”, “year  
22      6 of the Agreement”, “year 7 of the Agree-  
23      ment”, “year 8 of the Agreement”, and “year  
24      9 of the Agreement” mean the second, third,  
25      fourth, fifth, sixth, seventh, eighth, and ninth

1           calendar years, respectively, in which the Agree-  
2           ment is in force.

3 **SEC. 202. RULES OF ORIGIN.**

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

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

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

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

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

23           (1) the good is a good wholly obtained or pro-  
24 duced entirely in the territory of Korea, the United  
25 States, or both;



1 (2) the good—

2 (A) is produced entirely in the territory of  
3 Korea, the United States, or both, and—

4 (i) each of the nonoriginating mate-  
5 rials used in the production of the good  
6 undergoes an applicable change in tariff  
7 classification specified in Annex 4-A or  
8 Annex 6-A of the Agreement; or

9 (ii) the good otherwise satisfies any  
10 applicable regional value-content or other  
11 requirements specified in Annex 4-A or  
12 Annex 6-A of the Agreement; and

13 (B) satisfies all other applicable require-  
14 ments of this section; or

15 (3) the good is produced entirely in the terri-  
16 tory of Korea, the United States, or both, exclusively  
17 from materials described in paragraph (1) or (2).

18 (c) REGIONAL VALUE-CONTENT.—

19 (1) IN GENERAL.—For purposes of subsection  
20 (b)(2), the regional value-content of a good referred  
21 to in Annex 6-A of the Agreement, except for goods  
22 to which paragraph (4) applies, shall be calculated  
23 by the importer, exporter, or producer of the good,  
24 on the basis of the build-down method described in

1 paragraph (2) or the build-up method described in  
2 paragraph (3).

3 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

19 (3) BUILD-UP METHOD.—

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

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

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

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

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

6 (iii) VOM.—The term “VOM” means  
 7 the value of originating materials, other  
 8 than indirect materials, that are acquired  
 9 or self-produced, and used by the producer  
 10 in the production of the good.

11 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
 12 GOODS.—

13 (A) IN GENERAL.—For purposes of sub-  
 14 section (b)(2), the regional value-content of an  
 15 automotive good referred to in Annex 6-A of  
 16 the Agreement may be calculated by the im-  
 17 porter, exporter, or producer of the good on the  
 18 basis of the build-down method described in  
 19 paragraph (2), the build-up method described in  
 20 paragraph (3), or the following net cost method:

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

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

22 (i) AUTOMOTIVE GOOD.—The term  
 23 “automotive good” means a good provided  
 24 for in any of subheadings 8407.31 through

1 8407.34, subheading 8408.20, heading  
2 8409, or any of headings 8701 through  
3 8708.

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

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

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

16 (C) MOTOR VEHICLES.—

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

1                   tained in subparagraph (A), over the pro-  
2                   ducer's fiscal year—

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

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

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

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

19                  (II) is the same class of motor  
20                  vehicles, and is produced in the same  
21                  plant in the territory of Korea or the  
22                  United States, as the good described  
23                  in clause (i) for which regional value-  
24                  content is being calculated; or

1                   (III) is the same model line of  
2                   motor vehicles produced in the terri-  
3                   tory of Korea or the United States as  
4                   the good described in clause (i) for  
5                   which regional value-content is being  
6                   calculated.

7                   (D) OTHER AUTOMOTIVE GOODS.—For  
8                   purposes of determining the regional value-con-  
9                   tent under subparagraph (A) for automotive  
10                  materials provided for in any of subheadings  
11                  8407.31 through 8407.34, in subheading  
12                  8408.20, or in heading 8409, 8706, 8707, or  
13                  8708, that are produced in the same plant, an  
14                  importer, exporter, or producer may—

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

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

21                   (II) any quarter or month, or

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

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

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

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

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

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

1 sonably allocating the resulting net cost of  
2 those goods to the automotive good;

3 (ii) calculating the total cost incurred  
4 with respect to all goods produced by that  
5 producer, reasonably allocating the total  
6 cost to the automotive good, and then sub-  
7 tracting any sales promotion, marketing,  
8 and after-sales service costs, royalties,  
9 shipping and packing costs, and nonallow-  
10 able interest costs that are included in the  
11 portion of the total cost allocated to the  
12 automotive good; or

13 (iii) reasonably allocating each cost  
14 that forms part of the total cost incurred  
15 with respect to the automotive good so that  
16 the aggregate of these costs does not in-  
17 clude any sales promotion, marketing, and  
18 after-sales service costs, royalties, shipping  
19 and packing costs, or nonallowable interest  
20 costs.

21 (d) VALUE OF MATERIALS.—

22 (1) IN GENERAL.—For the purpose of calcu-  
23 lating the regional value-content of a good under  
24 subsection (c), and for purposes of applying the de



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (e) ACCUMULATION.—

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

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

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

21 (1) IN GENERAL.—Except as provided in para-  
22 graphs (2) and (3), a good that does not undergo a  
23 change in tariff classification pursuant to Annex 6-  
24 A of the Agreement is an originating good if—

1 (A) the value of all nonoriginating mate-  
2 rials used in the production of the good that do  
3 not undergo the applicable change in tariff clas-  
4 sification (set forth in Annex 6-A of the Agree-  
5 ment) does not exceed 10 percent of the ad-  
6 justed value of the good;

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

9 (C) the value of such nonoriginating mate-  
10 rials is included in the value of nonoriginating  
11 materials for any applicable regional value-con-  
12 tent requirement for the good.

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

15 (A) A nonoriginating material provided for  
16 in chapter 3 that is used in the production of  
17 a good provided for in chapter 3.

18 (B) A nonoriginating material provided for  
19 in chapter 4, or a nonoriginating dairy prepara-  
20 tion containing over 10 percent by weight of  
21 milk solids provided for in subheading 1901.90  
22 or 2106.90, that is used in the production of a  
23 good provided for in chapter 4.

24 (C) A nonoriginating material provided for  
25 in chapter 4, or a nonoriginating dairy prepara-

1           tion containing over 10 percent by weight of  
2           milk solids provided for in subheading 1901.90,  
3           that is used in the production of any of the fol-  
4           lowing goods:

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

8                   (ii) Mixes and doughs, containing over  
9                   25 percent by weight of butterfat, not put  
10                  up for retail sale, provided for in sub-  
11                  heading 1901.20.

12                  (iii) Dairy preparations containing  
13                  over 10 percent by weight of milk solids  
14                  provided for in subheading 1901.90 or  
15                  2106.90.

16                  (iv) Goods provided for in heading  
17                  2105.

18                  (v) Beverages containing milk pro-  
19                  vided for in subheading 2202.90.

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

23           (D) A nonoriginating material provided for  
24           in chapter 7 that is used in the production of  
25           a good provided for in subheading 0703.10,

1 0703.20, 0709.59, 0709.60, 0711.90, 0712.20,  
2 0714.20, or any of subheadings 0710.21  
3 through 0710.80 or 0712.39 through 0713.10.

4 (E) A nonoriginating material provided for  
5 in heading 1006, or a nonoriginating rice prod-  
6 uct provided for in chapter 11 that is used in  
7 the production of a good provided for in head-  
8 ing 1006, 1102, 1103, 1104, or subheading  
9 1901.20 or 1901.90.

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

19 (G) Nonoriginating peaches, pears, or apri-  
20 cots provided for in chapter 8 or 20 that are  
21 used in the production of a good provided for  
22 in heading 2008.

23 (H) A nonoriginating material provided for  
24 in chapter 15 that is used in the production of

1 a good provided for in any of headings 1501  
2 through 1508, or heading 1512, 1514, or 1515.

3 (I) A nonoriginating material provided for  
4 in heading 1701 that is used in the production  
5 of a good provided for in any of headings 1701  
6 through 1703.

7 (J) A nonoriginating material provided for  
8 in chapter 17 that is used in the production of  
9 a good provided for in subheading 1806.10.

10 (K) Except as provided in subparagraphs  
11 (A) through (J) and Annex 6-A of the Agree-  
12 ment, a nonoriginating material used in the  
13 production of a good provided for in any of  
14 chapters 1 through 24, unless the nonorigi-  
15 nating material is provided for in a different  
16 subheading than the good for which origin is  
17 being determined under this section.

18 (3) TEXTILE OR APPAREL GOODS.—

19 (A) IN GENERAL.—Except as provided in  
20 subparagraph (B), a textile or apparel good  
21 that is not an originating good because certain  
22 fibers or yarns used in the production of the  
23 component of the good that determines the tar-  
24 iff classification of the good do not undergo an  
25 applicable change in tariff classification, set



1           forth in Annex 4-A of the Agreement, shall be  
2           considered to be an originating good if the total  
3           weight of all such fibers or yarns in that com-  
4           ponent is not more than 7 percent of the total  
5           weight of that component.

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

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

20          (g) FUNGIBLE GOODS AND MATERIALS.—

21                  (1) IN GENERAL.—

22                          (A) CLAIM FOR PREFERENTIAL TARIFF  
23                          TREATMENT.—A person claiming that a fun-  
24                          gible good or fungible material is an originating  
25                          good may base the claim either on the physical

1 segregation of the fungible good or fungible ma-  
2 terial or by using an inventory management  
3 method with respect to the fungible good or  
4 fungible material.

5 (B) INVENTORY MANAGEMENT METHOD.—

6 In this subsection, the term “inventory manage-  
7 ment method” means—

- 8 (i) averaging;  
9 (ii) “last-in, first-out”;  
10 (iii) “first-in, first-out”; or  
11 (iv) any other method—

12 (I) recognized in the generally  
13 accepted accounting principles of the  
14 country in which the production is  
15 performed (whether Korea or the  
16 United States); or

17 (II) otherwise accepted by that  
18 country.

19 (2) ELECTION OF INVENTORY METHOD.—A  
20 person selecting an inventory management method  
21 under paragraph (1) for a particular fungible good  
22 or fungible material shall continue to use that meth-  
23 od for that fungible good or fungible material  
24 throughout the fiscal year of such person.

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

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

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

7                   (B) be disregarded in determining whether  
8                   all the nonoriginating materials used in the pro-  
9                   duction of the good undergo the applicable  
10                  change in tariff classification set forth in Annex  
11                  6-A of the Agreement.

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

14                   (A) the accessories, spare parts, or tools  
15                   are classified with and not invoiced separately  
16                   from the good; and

17                   (B) the quantities and value of the acces-  
18                   sories, spare parts, or tools are customary for  
19                   the good.

20           (3) REGIONAL VALUE CONTENT.—If the good is  
21           subject to a regional value-content requirement, the  
22           value of the accessories, spare parts, or tools shall  
23           be taken into account as originating or nonorigi-  
24           nating materials, as the case may be, in calculating  
25           the regional value-content of the good.

1           (i) PACKAGING MATERIALS AND CONTAINERS FOR  
2 RETAIL SALE.—Packaging materials and containers in  
3 which a good is packaged for retail sale, if classified with  
4 the good, shall be disregarded in determining whether all  
5 the nonoriginating materials used in the production of the  
6 good undergo the applicable change in tariff classification  
7 set forth in Annex 4-A or Annex 6-A of the Agreement,  
8 and, if the good is subject to a regional value-content re-  
9 quirement, the value of such packaging materials and con-  
10 tainers shall be taken into account as originating or non-  
11 originating materials, as the case may be, in calculating  
12 the regional value-content of the good.

13           (j) PACKING MATERIALS AND CONTAINERS FOR  
14 SHIPMENT.—Packing materials and containers for ship-  
15 ment shall be disregarded in determining whether a good  
16 is an originating good.

17           (k) INDIRECT MATERIALS.—An indirect material  
18 shall be disregarded in determining whether a good is an  
19 originating good.

20           (l) TRANSIT AND TRANSHIPMENT.—A good that has  
21 undergone production necessary to qualify as an origi-  
22 nating good under subsection (b) shall not be considered  
23 to be an originating good if, subsequent to that produc-  
24 tion, the good—

1           (1) undergoes further production or any other  
2 operation outside the territory of Korea or the  
3 United States, other than unloading, reloading, or  
4 any other operation necessary to preserve the good  
5 in good condition or to transport the good to the ter-  
6 ritory of Korea or the United States; or

7           (2) does not remain under the control of cus-  
8 toms authorities in the territory of a country other  
9 than Korea or the United States.

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

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

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

20               (A) in the case of textile or apparel goods,  
21               10 percent of the adjusted value of the set; or

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

25       (n) DEFINITIONS.—In this section:

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

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

17           (A) Motor vehicles provided for in sub-  
18 heading 8701.20, 8704.10, 8704.22, 8704.23,  
19 8704.32, or 8704.90, or heading 8705 or 8706,  
20 or motor vehicles for the transport of 16 or  
21 more persons provided for in subheading  
22 8702.10 or 8702.90.

23           (B) Motor vehicles provided for in sub-  
24 heading 8701.10 or any of subheadings  
25 8701.30 through 8701.90.

1           (C) Motor vehicles for the transport of 15  
2           or fewer persons provided for in subheading  
3           8702.10 or 8702.90, or motor vehicles provided  
4           for in subheading 8704.21 or 8704.31.

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

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

14          (4) GENERALLY ACCEPTED ACCOUNTING PRIN-  
15          CIPLES.—The term “generally accepted accounting  
16          principles”—

17                (A) means the recognized consensus or  
18                substantial authoritative support given in the  
19                territory of Korea or the United States, as the  
20                case may be, with respect to the recording of  
21                revenues, expenses, costs, assets, and liabilities,  
22                the disclosure of information, and the prepara-  
23                tion of financial statements; and

1 (B) may encompass broad guidelines for  
2 general application as well as detailed stand-  
3 ards, practices, and procedures.

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

10 (A) Plants and plant products grown, and  
11 harvested or gathered, in the territory of Korea,  
12 the United States, or both.

13 (B) Live animals born and raised in the  
14 territory of Korea, the United States, or both.

15 (C) Goods obtained in the territory of  
16 Korea, the United States, or both from live ani-  
17 mals.

18 (D) Goods obtained from hunting, trap-  
19 ping, fishing, or aquaculture conducted in the  
20 territory of Korea, the United States, or both.

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



1 (F) Fish, shellfish, and other marine life  
2 taken from the sea, seabed, or subsoil outside  
3 the territory of Korea or the United States  
4 by—

5 (i) a vessel that is registered or re-  
6 corded with Korea and flying the flag of  
7 Korea; or

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

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

13 (i) is registered or recorded with  
14 Korea and flies the flag of Korea; or

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

17 (H)(i) Goods taken by Korea or a person  
18 of Korea from the seabed or subsoil outside the  
19 territory of Korea, the United States, or both,  
20 if Korea has rights to exploit such seabed or  
21 subsoil; or

22 (ii) Goods taken by the United States or a  
23 person of the United States from the seabed or  
24 subsoil outside the territory of the United

1 States, Korea, or both, if the United States has  
2 rights to exploit such seabed or subsoil.

3 (I) Goods taken from outer space, if the  
4 goods are obtained by Korea or the United  
5 States or a person of Korea or the United  
6 States and not processed in the territory of a  
7 country other than Korea or the United States.

8 (J) Waste and scrap derived from—

9 (i) manufacturing or processing oper-  
10 ations in the territory of Korea, the United  
11 States, or both; or

12 (ii) used goods collected in the terri-  
13 tory of Korea, the United States, or both,  
14 if such goods are fit only for the recovery  
15 of raw materials.

16 (K) Recovered goods derived in the terri-  
17 tory of Korea, the United States, or both, from  
18 used goods, and used in the territory of Korea,  
19 the United States, or both, in the production of  
20 remanufactured goods.

21 (L) Goods, at any stage of production, pro-  
22 duced in the territory of Korea, the United  
23 States, or both, exclusively from—

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

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

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

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

14 (A) fuel and energy;

15 (B) tools, dies, and molds;

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

18 (D) lubricants, greases, compounding ma-  
19 terials, and other materials used in production  
20 or used to operate equipment or buildings;

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

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

25 (G) catalysts and solvents; and

1           (H) any other good that is not incor-  
2           porated into the other good but the use of  
3           which in the production of the other good can  
4           reasonably be demonstrated to be a part of that  
5           production.

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

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

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

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

22          (12) NONALLOWABLE INTEREST COSTS.—The  
23          term “nonallowable interest costs” means interest  
24          costs incurred by a producer that exceed 700 basis  
25          points above the applicable official interest rate for

1 comparable maturities of the country in which the  
2 producer is located.

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

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

14 (15) PREFERENTIAL TARIFF TREATMENT.—  
15 The term “preferential tariff treatment” means the  
16 customs duty rate, and the treatment under article  
17 2.10.4 of the Agreement, that are applicable to an  
18 originating good pursuant to the Agreement.

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

22 (17) PRODUCTION.—The term “production”  
23 means growing, mining, harvesting, fishing, breed-  
24 ing, raising, trapping, hunting, manufacturing, proc-  
25 essing, assembling, or disassembling a good.

1           (18) REASONABLY ALLOCATE.—The term “rea-  
2           sonably allocate” means to apportion in a manner  
3           that would be appropriate under generally accepted  
4           accounting principles.

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

8                   (A) the disassembly of used goods into in-  
9                   dividual parts; and

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

14           (20) REMANUFACTURED GOOD.—The term “re-  
15           manufactured good” means a good that is classified  
16           under chapter 84, 85, 87, or 90 or heading 9402,  
17           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 Korea, 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 4-A  
9 and Annex 6-A 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) MODIFICATIONS.—

14 (A) IN GENERAL.—Subject to the consulta-  
15 tion and layover provisions of section 104, the  
16 President may proclaim modifications to the  
17 provisions proclaimed under the authority of  
18 paragraph (1)(A), other than provisions of  
19 chapters 50 through 63 (as included in Annex  
20 4-A of the Agreement).

21 (B) ADDITIONAL PROCLAMATIONS.—Not-  
22 withstanding subparagraph (A), and subject to  
23 the consultation and layover provisions of sec-  
24 tion 104, the President may proclaim—



1 (i) such modifications to the provi-  
2 sions proclaimed under the authority of  
3 paragraph (1)(A) as are necessary to im-  
4 plement an agreement with Korea pursu-  
5 ant to article 4.2.5 of the Agreement; and

6 (ii) before the end of the 1-year period  
7 beginning on the date on which the Agree-  
8 ment enters into force, modifications to  
9 correct any typographical, clerical, or other  
10 nonsubstantive technical error regarding  
11 the provisions of chapters 50 through 63  
12 (as included in Annex 4-A of the Agree-  
13 ment).

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

17 (A) IN GENERAL.—Notwithstanding para-  
18 graph (2)(A), the list of fibers, yarns, and fab-  
19 rics set forth in the list of the United States in  
20 Appendix 4-B-1 of the Agreement may be modi-  
21 fied as provided for in this paragraph.

22 (B) DEFINITIONS.—In this paragraph:

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

1 of a textile or apparel good, or a potential  
2 or actual supplier of a textile or apparel  
3 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 FIBERS, YARNS, OR  
9 FABRICS.—

10 (i) IN GENERAL.—An interested entity  
11 may request the President to determine  
12 that a fiber, yarn, or fabric is not available  
13 in commercial quantities in a timely man-  
14 ner in the United States and to add that  
15 fiber, yarn, or fabric to the list of the  
16 United States in Appendix 4-B-1 of the  
17 Agreement.

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

21 (I) the fiber, yarn, or fabric is  
22 available in commercial quantities in a  
23 timely manner in the United States;  
24 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 fiber, yarn, or fabric that is the subject  
7 of the request is added to the list of the  
8 United States in Appendix 4-B-1 of the  
9 Agreement, if the President has deter-  
10 mined under clause (ii) that—

11 (I) the fiber, yarn, or fabric is  
12 not available in commercial quantities  
13 in a timely manner in the United  
14 States; or

15 (II) no interested entity has ob-  
16 jected to the request.

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

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

23 (II) not later than 60 days after  
24 the request is submitted, if the Presi-  
25 dent determines, within 30 days after

1 the date on which the request is sub-  
2 mitted, that the President does not  
3 have sufficient information to make a  
4 determination under clause (ii).

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

10 (D) DEEMED DENIAL OF REQUEST.—If,  
11 after an interested entity submits a request  
12 under subparagraph (C)(i), the President does  
13 not, within 30 days of the expiration of the ap-  
14 plicable time period specified in subparagraph  
15 (C)(iv), make a determination under subpara-  
16 graph (C)(ii) regarding the request, the request  
17 shall be considered to be denied.

18 (E) REQUESTS TO REMOVE FIBERS,  
19 YARNS, OR FABRICS.—

20 (i) IN GENERAL.—An interested entity  
21 may request the President to remove from  
22 the list of the United States in Appendix  
23 4-B-1 of the Agreement, any fiber, yarn, or  
24 fabric that has been added to that list pur-  
25 suant to subparagraph (C)(iii).

1                   (ii) PROCLAMATION AUTHORITY.—Not  
2 later than 30 days after the date on which  
3 a request under clause (i) is submitted, the  
4 President may proclaim that the fiber,  
5 yarn, or fabric that is the subject of the re-  
6 quest is removed from the list of the  
7 United States in Appendix 4-B-1 of the  
8 Agreement if the President determines  
9 that the fiber, yarn, or fabric is available  
10 in commercial quantities in a timely man-  
11 ner in the United States.

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

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

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

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

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

3 **SEC. 203. CUSTOMS USER FEES.**

4 Section 13031(b) of the Consolidated Omnibus Budg-  
5 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is  
6 amended by adding after paragraph (18) the following:

7 “(19) No fee may be charged under subsection (a)  
8 (9) or (10) with respect to goods that qualify as origi-  
9 nating goods under section 202 of the United States–  
10 Korea Free Trade Agreement Implementation Act. Any  
11 service for which an exemption from such fee is provided  
12 by reason of this paragraph may not be funded with  
13 money contained in the Customs User Fee Account.”.

14 **SEC. 204. DISCLOSURE OF INCORRECT INFORMATION;  
15 FALSE CERTIFICATIONS OF ORIGIN; DENIAL  
16 OF PREFERENTIAL TARIFF TREATMENT.**

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

20 (1) in subsection (c)—

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

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

1           “(11) PRIOR DISCLOSURE REGARDING CLAIMS  
2 UNDER THE UNITED STATES–KOREA FREE TRADE  
3 AGREEMENT.—An importer shall not be subject to  
4 penalties under subsection (a) for making an incor-  
5 rect claim that a good qualifies as an originating  
6 good under section 202 of the United States–Korea  
7 Free Trade Agreement Implementation Act if the  
8 importer, in accordance with regulations issued by  
9 the Secretary of the Treasury, promptly and volun-  
10 tarily makes a corrected declaration and pays any  
11 duties owing with respect to that good.”; and

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

14           “(j) FALSE CERTIFICATIONS OF ORIGIN UNDER THE  
15 UNITED STATES–KOREA FREE TRADE AGREEMENT.—

16           “(1) IN GENERAL.—Subject to paragraph (2),  
17 it is unlawful for any person to certify falsely, by  
18 fraud, gross negligence, or negligence, in a KFTA  
19 certification of origin (as defined in section 508 of  
20 this Act) that a good exported from the United  
21 States qualifies as an originating good under the  
22 rules of origin provided for in section 202 of the  
23 United States–Korea Free Trade Agreement Imple-  
24 mentation Act. The procedures and penalties of this

1 section that apply to a violation of subsection (a)  
2 also apply to a violation of this subsection.

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

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

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

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

22 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-  
23 MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.  
24 1514) is amended by adding at the end the following new  
25 subsection:



1           “(j) DENIAL OF PREFERENTIAL TARIFF TREAT-  
2   MENT UNDER THE UNITED STATES–KOREA FREE TRADE  
3   AGREEMENT.—If U.S. Customs and Border Protection or  
4   U.S. Immigration and Customs Enforcement of the De-  
5   partment of Homeland Security finds indications of a pat-  
6   tern of conduct by an importer, exporter, or producer of  
7   false or unsupported representations that goods qualify  
8   under the rules of origin provided for in section 202 of  
9   the United States–Korea Free Trade Agreement Imple-  
10  mentation Act, U.S. Customs and Border Protection, in  
11  accordance with regulations issued by the Secretary of the  
12  Treasury, may suspend preferential tariff treatment under  
13  the United States–Korea Free Trade Agreement Imple-  
14  mentation Act to entries of identical goods covered by sub-  
15  sequent representations by that importer, exporter, or pro-  
16  ducer until U.S. Customs and Border Protection deter-  
17  mines that representations of that person are in con-  
18  formity with such section 202.”.

19   **SEC. 205. RELIQUIDATION OF ENTRIES.**

20           Section 520(d) of the Tariff Act of 1930 (19 U.S.C.  
21  1520(d)) is amended in the matter preceding paragraph  
22  (1)—

23                   (1) by striking “or”; and

1           (2) by striking “for which” and inserting “, or  
2           section 202 of the United States–Korea Free Trade  
3           Agreement Implementation Act for which”.

4 **SEC. 206. RECORDKEEPING REQUIREMENTS.**

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

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

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

11          “(i) CERTIFICATIONS OF ORIGIN FOR GOODS EX-  
12          PORTED UNDER THE UNITED STATES–KOREA FREE  
13          TRADE AGREEMENT.—

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

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

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

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

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

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

5 “(B) KFTA CERTIFICATION OF ORIGIN.—  
6 The term ‘KFTA certification of origin’ means  
7 the certification established under article 6.15  
8 of the United States–Korea Free Trade Agree-  
9 ment that a good qualifies as an originating  
10 good under such Agreement.

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

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

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

3 **SEC. 207. ENFORCEMENT RELATING TO TRADE IN TEXTILE**  
4 **OR APPAREL GOODS.**

5           (a) ACTION DURING VERIFICATION.—

6           (1) IN GENERAL.—If the Secretary of the  
7           Treasury requests the Government of Korea to con-  
8           duct a verification pursuant to article 4.3 of the  
9           Agreement for purposes of making a determination  
10          under paragraph (2), the President may direct the  
11          Secretary to take appropriate action described in  
12          subsection (b) while the verification is being con-  
13          ducted.

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

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

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

24                         (i) qualifies as an originating good  
25                         under section 202, or

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

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

5 (1) suspension of liquidation of the entry of any  
6 textile or apparel good exported or produced by the  
7 person that is the subject of a verification under  
8 subsection (a)(1) regarding compliance described in  
9 subsection (a)(2)(A), in a case in which the request  
10 for verification was based on a reasonable suspicion  
11 of unlawful activity related to such goods; and

12 (2) suspension of liquidation of the entry of a  
13 textile or apparel good for which a claim has been  
14 made that is the subject of a verification under sub-  
15 section (a)(1) regarding a claim described in sub-  
16 section (a)(2)(B).

17 (c) ACTION WHEN INFORMATION IS INSUFFI-  
18 CIENT.—If the Secretary of the Treasury determines that  
19 the information obtained within 12 months after making  
20 a request for a verification under subsection (a)(1) is in-  
21 sufficient to make a determination under subsection  
22 (a)(2), the President may direct the Secretary to take ap-  
23 propriate action described in subsection (d) until such  
24 time as the Secretary receives information sufficient to

1 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); or

11 (B) the textile or apparel good for which a  
12 claim has been made that is the subject of a  
13 verification under subsection (a)(1) regarding a  
14 claim described in subsection (a)(2)(B); and

15 (2) denial of entry into the United States of—

16 (A) any textile or apparel good exported or  
17 produced by the person that is the subject of a  
18 verification under subsection (a)(1) regarding  
19 compliance described in subsection (a)(2)(A); or

20 (B) a textile or apparel good for which a  
21 claim has been made that is the subject of a  
22 verification under subsection (a)(1) regarding a  
23 claim described in subsection (a)(2)(B).

24 (e) PUBLICATION OF NAME OF PERSON.—In accord-  
25 ance with article 4.3.11 of the Agreement, the Secretary

1 of the Treasury may publish the name of any person that  
2 the Secretary has determined—

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

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

8           (f) CERTIFICATE OF ELIGIBILITY.—The Commis-  
9 sioner responsible for U.S. Customs and Border Protec-  
10 tion of the Department of Homeland Security may require  
11 an importer to submit at the time the importer files a  
12 claim for preferential tariff treatment under Annex 4-B  
13 of the Agreement a certificate of eligibility, properly com-  
14 pleted and signed by an authorized official of the Govern-  
15 ment of Korea.

16           (g) VERIFICATIONS IN THE UNITED STATES.—If the  
17 government of a country that is a party to a free trade  
18 agreement with the United States makes a request for a  
19 verification pursuant to that agreement, the Secretary of  
20 the Treasury may request a verification of the production  
21 of any textile or apparel good in order to assist that gov-  
22 ernment in determining whether—

23           (1) a claim of origin under the agreement for  
24 a textile or apparel good is accurate; or

1           (2) an exporter, producer, or other enterprise  
2           located in the United States involved in the move-  
3           ment of textile or apparel goods from the United  
4           States to the territory of the requesting government  
5           is complying with applicable customs laws, regula-  
6           tions, and procedures regarding trade in textile or  
7           apparel goods.

8 **SEC. 208. REGULATIONS.**

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

- 11           (1) subsections (a) through (n) of section 202;  
12           (2) the amendment made by section 203; and  
13           (3) any proclamation issued under section  
14          202(o).

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

17 **SEC. 301. DEFINITIONS.**

18          In this title:

19           (1) **KOREAN ARTICLE.**—The term “Korean arti-  
20          cle” means an article that qualifies as an originating  
21          good under section 202(b).

22           (2) **KOREAN MOTOR VEHICLE ARTICLE.**—The  
23          term “Korean motor vehicle article” means a good  
24          provided for in heading 8703 or 8704 of the HTS



1 that qualifies as an originating good under section  
2 202(b).

3 (3) KOREAN TEXTILE OR APPAREL ARTICLE.—

4 The term “Korean textile or apparel article” means  
5 a textile or apparel good (as defined in section 3(5))  
6 that is a Korean article.

7 **Subtitle A—Relief From Imports**  
8 **Benefitting From the Agreement**

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

10 (a) FILING OF PETITION.—

11 (1) IN GENERAL.—A petition requesting action  
12 under this subtitle for the purpose of adjusting to  
13 the obligations of the United States under the  
14 Agreement may be filed with the Commission by an  
15 entity, including a trade association, firm, certified  
16 or recognized union, or group of workers, that is  
17 representative of an industry. The Commission shall  
18 transmit a copy of any petition filed under this sub-  
19 section to the United States Trade Representative.

20 (2) PROVISIONAL RELIEF.—An entity filing a  
21 petition under this subsection may request that pro-  
22 visional relief be provided as if the petition had been  
23 filed under section 202(a) of the Trade Act of 1974  
24 (19 U.S.C. 2252(a)).

1           (3) CRITICAL CIRCUMSTANCES.—Any allegation  
2           that critical circumstances exist shall be included in  
3           the petition.

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

16          (c) APPLICABLE PROVISIONS.—The following provi-  
17          sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
18          2252) apply with respect to any investigation initiated  
19          under subsection (b):

20                 (1) Paragraphs (1)(B) and (3) of subsection  
21                 (b).

22                 (2) Subsection (c).

23                 (3) Subsection (d).

24                 (4) Subsection (i).

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

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

8 (a) DETERMINATION.—Not later than 120 days (180  
9 days if critical circumstances have been alleged) after the  
10 date on which an investigation is initiated under section  
11 311(b) with respect to a petition, the Commission shall  
12 make the determination required under that section.

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

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

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

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

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

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

24 (d) REPORT TO PRESIDENT.—Not later than the  
25 date that is 30 days after the date on which a determina-

1 tion is made under subsection (a) with respect to an inves-  
2 tigation, the Commission shall submit to the President a  
3 report that includes—

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

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

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

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

21 **SEC. 313. PROVISION OF RELIEF.**

22 (a) IN GENERAL.—Not later than the date that is  
23 30 days after the date on which the President receives a  
24 report of the Commission in which the Commission's de-  
25 termination under section 312(a) is affirmative, or which

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

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

15 (c) NATURE OF RELIEF.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graph (2), the import relief that the President is au-  
18 thorized to provide under this section with respect to  
19 imports of an article is as follows:

20 (A) The suspension of any further reduc-  
21 tion provided for under Annex 2-B of the  
22 Agreement in the duty imposed on the article.

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

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

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

8 (2) DUTIES APPLIED ON A SEASONAL BASIS.—

9 In the case of imports of an article to which a duty  
10 is applied on a seasonal basis, the import relief that  
11 the President is authorized to provide under this  
12 section is as follows:

13 (A) The suspension of any further reduc-  
14 tion provided for under Annex 2-B of the  
15 Agreement in the duty imposed on the article.

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

19 (i) the column 1 general rate of duty  
20 imposed under the HTS on like articles for  
21 the corresponding season immediately pre-  
22 ceding the date the import relief is pro-  
23 vided; or

24 (ii) the column 1 general rate of duty  
25 imposed under the HTS for the cor-

1           responding season immediately preceding  
2           the date on which the Agreement enters  
3           into force.

4           (3) PROGRESSIVE LIBERALIZATION.—If the pe-  
5           riod for which import relief is provided under this  
6           section is greater than 1 year, the President shall  
7           provide for the progressive liberalization (described  
8           in article 10.2.7 of the Agreement) of such relief at  
9           regular intervals during the period of its application.

10          (d) PERIOD OF RELIEF.—

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

15           (2) EXTENSION.—

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



1 (i) the import relief continues to be  
2 necessary to remedy or prevent serious in-  
3 jury and to facilitate adjustment by the do-  
4 mestic industry to import competition; and

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

8 (B) ACTION BY COMMISSION.—

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

22 (ii) NOTICE AND HEARING.—The  
23 Commission shall publish notice of the  
24 commencement of any proceeding under  
25 this subparagraph in the Federal Register

1 and shall, within a reasonable time there-  
2 after, hold a public hearing at which the  
3 Commission shall afford interested parties  
4 and consumers an opportunity to be  
5 present, to present evidence, and to re-  
6 spond to the presentations of other parties  
7 and consumers, and otherwise to be heard.

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

15 (C) PERIOD OF IMPORT RELIEF.—Any im-  
16 port relief provided under this section, including  
17 any extensions thereof, may not, in the aggre-  
18 gate, be in effect for more than 3 years.

19 (e) RATE AFTER TERMINATION OF IMPORT RE-  
20 LIEF.—Beginning on the date on which import relief  
21 under this section is terminated with respect to an article,  
22 the rate of duty on that article shall be the rate that would  
23 have been in effect but for the provision of such relief.

1 (f) ARTICLES EXEMPT FROM RELIEF.—No import  
2 relief may be provided under this section on any article  
3 that is subject to import relief under—

4 (1) subtitle B or C; or

5 (2) chapter 1 of title II of the Trade Act of  
6 1974 (19 U.S.C. 2251 et seq.).

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

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

12 (b) EXCEPTION.—If an article for which relief is pro-  
13 vided under this subtitle is an article for which the period  
14 for tariff elimination, set forth in the Schedule of the  
15 United States to Annex 2-B of the Agreement, is greater  
16 than 10 years, no relief under this subtitle may be pro-  
17 vided for that article after the date on which that period  
18 ends.

19 (c) PRESIDENTIAL DETERMINATION.—Import relief  
20 may be provided under this subtitle in the case of a Ko-  
21 rean article after the date on which such relief would, but  
22 for this subsection, terminate under subsection (a) and  
23 (b), if the President determines that Korea has consented  
24 to such relief.

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

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

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

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

10 (1) by striking “and”; and

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

14 **Subtitle B—Motor Vehicle**  
15 **Safeguard Measures**

16 **SEC. 321. MOTOR VEHICLE SAFEGUARD MEASURES.**

17 The provisions of subtitle A shall apply with respect  
18 to a Korean motor vehicle article to the same extent that  
19 such provisions apply to Korean articles, except as follows:

20 (1) Section 311(d) and paragraphs (2) and (3)  
21 of 313(c) shall not apply.

22 (2) Section 313(d)(2)(A) shall be applied and  
23 administered by substituting “2 years” for “1 year”.

24 (3) Section 313(d)(2)(C) shall be applied and  
25 administered by substituting “4 years” for “3  
26 years”.

1           (4) Section 313(f)(1) shall be applied and ad-  
2 ministered by substituting “subtitle A” for “subtitle  
3 B or C”.

4           (5) Section 314(b) shall be applied and admin-  
5 istered as if such section read as follows:

6           “(b) EXCEPTION.—Import relief may be provided  
7 under this subtitle with respect to a Korean motor vehicle  
8 article during any period before the date that is 10 years  
9 after the date on which duties on the article are elimi-  
10 nated, as set forth in section 201(d), or, if the article is  
11 not referred to in section 201(d), the Schedule of the  
12 United States to Annex 2-B of the Agreement.”.

## 13           **Subtitle C—Textile and Apparel** 14                           **Safeguard Measures**

### 15           **SEC. 331. COMMENCEMENT OF ACTION FOR RELIEF.**

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

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

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

6 **SEC. 332. DETERMINATION AND PROVISION OF RELIEF.**

7 (a) DETERMINATION.—

8 (1) IN GENERAL.—If a positive determination is  
9 made under section 331(b), the President shall de-  
10 termine whether, as a result of the reduction or  
11 elimination of a duty under the Agreement, a Ko-  
12 rean textile or apparel article is being imported into  
13 the United States in such increased quantities, in  
14 absolute terms or relative to the domestic market for  
15 that article, and under such conditions as to cause  
16 serious damage, or actual threat thereof, to a domes-  
17 tic industry producing an article that is like, or di-  
18 rectly competitive with, the imported article.

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

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

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

4           (B) shall not consider changes in tech-  
5           nology or consumer preference as factors sup-  
6           porting a determination of serious damage or  
7           actual threat thereof.

8           (b) PROVISION OF RELIEF.—

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

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

20                 (A) the suspension of any further reduc-  
21                 tion provided for under Annex 2-B of the  
22                 Agreement in the duty imposed on the article;  
23                 or

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

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

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

11 **SEC. 333. PERIOD OF RELIEF.**

12           (a) IN GENERAL.—Subject to subsection (b), the im-  
13           port relief that the President provides under section  
14           332(b) may not be in effect for more than 2 years.

15           (b) EXTENSION.—

16                   (1) IN GENERAL.—Subject to paragraph (2),  
17                   the President may extend the effective period of any  
18                   import relief provided under this subtitle for a pe-  
19                   riod of not more than 2 years, if the President de-  
20                   termines that—

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



1 (B) there is evidence that the industry is  
2 making a positive adjustment to import com-  
3 petition.

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

8 **SEC. 334. ARTICLES EXEMPT FROM RELIEF.**

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

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

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

15 (A) subtitle A; or

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

18 **SEC. 335. RATE AFTER TERMINATION OF IMPORT RELIEF.**

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

23 **SEC. 336. TERMINATION OF RELIEF AUTHORITY.**

24 No import relief may be provided under this subtitle  
25 with respect to any article after the date that is 10 years

1 after the date on which duties on the article are eliminated  
2 pursuant to the Agreement.

3 **SEC. 337. COMPENSATION AUTHORITY.**

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

9 **SEC. 338. CONFIDENTIAL BUSINESS INFORMATION.**

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

1    **Subtitle D—Cases Under Title II of**  
2                    **the Trade Act of 1974**

3    **SEC. 341. FINDINGS AND ACTION ON KOREAN ARTICLES.**

4           (a) EFFECT OF IMPORTS.—If, in any investigation  
5 initiated under chapter 1 of title II of the Trade Act of  
6 1974 (19 U.S.C. 2251 et seq.), the Commission makes an  
7 affirmative determination (or a determination which the  
8 President may treat as an affirmative determination under  
9 such chapter by reason of section 330(d) of the Tariff Act  
10 of 1930 (19 U.S.C. 1330(d))), the Commission shall also  
11 find (and report to the President at the time such injury  
12 determination is submitted to the President) whether im-  
13 ports of the Korean article are a substantial cause of seri-  
14 ous injury or threat thereof.

15          (b) PRESIDENTIAL DETERMINATION REGARDING  
16 KOREAN ARTICLES.—In determining the nature and ex-  
17 tent of action to be taken under chapter 1 of title II of  
18 the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Presi-  
19 dent may exclude from the action Korean articles with re-  
20 spect to which the Commission has made a negative find-  
21 ing under subsection (a).

22                    **TITLE IV—PROCUREMENT**

23    **SEC. 401. ELIGIBLE PRODUCTS.**

24           Section 308(4)(A) of the Trade Agreements Act of  
25 1979 (19 U.S.C. 2518(4)(A)) is amended—

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

2 (2) by striking the period at the end of clause  
3 (vii) and inserting “; or”; and

4 (3) by adding at the end the following new  
5 clause:

6 “(viii) a party to the United States–  
7 Korea Free Trade Agreement, a product or  
8 service of that country or instrumentality  
9 which is covered under that agreement for  
10 procurement by the United States.”.

## 11 **TITLE V—OFFSETS**

### 12 **SEC. 501. INCREASE IN PENALTY ON PAID PREPARERS WHO** 13 **FAIL TO COMPLY WITH EARNED INCOME TAX** 14 **CREDIT DUE DILIGENCE REQUIREMENTS.**

15 (a) IN GENERAL.—Section 6695(g) of the Internal  
16 Revenue Code of 1986 is amended by striking “\$100” and  
17 inserting “\$500”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to returns required to be filed after  
20 December 31, 2011.

### 21 **SEC. 502. REQUIREMENT FOR PRISONS LOCATED IN THE** 22 **UNITED STATES TO PROVIDE INFORMATION** 23 **FOR TAX ADMINISTRATION.**

24 (a) IN GENERAL.—Subchapter B of chapter 61 of the  
25 Internal Revenue Code of 1986 is amended by redesign-

1 nating section 6116 as section 6117 and by inserting after  
2 section 6115 the following new section:

3 **“SEC. 6116. REQUIREMENT FOR PRISONS LOCATED IN**  
4 **UNITED STATES TO PROVIDE INFORMATION**  
5 **FOR TAX ADMINISTRATION.**

6 “(a) IN GENERAL.—Not later than September 15,  
7 2012, and annually thereafter, the head of the Federal  
8 Bureau of Prisons and the head of any State agency  
9 charged with the responsibility for administration of pris-  
10 ons shall provide to the Secretary in electronic format a  
11 list with the information described in subsection (b) of all  
12 the inmates incarcerated within the prison system for any  
13 part of the prior 2 calendar years or the current calendar  
14 year through August 31.

15 “(b) INFORMATION.—The information with respect  
16 to each inmate is—

17 “(1) first, middle, and last name,

18 “(2) date of birth,

19 “(3) institution of current incarceration or, for  
20 released inmates, most recent incarceration,

21 “(4) prison assigned inmate number,

22 “(5) the date of incarceration,

23 “(6) the date of release or anticipated date of  
24 release,

25 “(7) the date of work release,

1           “(8) taxpayer identification number and wheth-  
2           er the prison has verified such number,

3           “(9) last known address, and

4           “(10) any additional information as the Sec-  
5           retary may request.

6           “(c) **FORMAT.**—The Secretary shall determine the  
7           electronic format of the information described in sub-  
8           section (b).”.

9           (b) **CLERICAL AMENDMENT.**—The table of sections  
10          for such subchapter is amended by striking the item relat-  
11          ing to section 6116 and by adding at the end the following  
12          new items:

          “Sec. 6116. Requirement for prisons located in United States to provide infor-  
                                                mation for tax administration.

          “Sec. 6117. Cross reference.”.

13       **SEC. 503. RATE FOR MERCHANDISE PROCESSING FEES.**

14           For the period beginning on December 1, 2015, and  
15          ending on June 30, 2021, section 13031(a)(9) of the Con-  
16          solidated Omnibus Budget Reconciliation Act of 1985 (19  
17          U.S.C. 58c(a)(9)) shall be applied and administered—

18           (1) in subparagraph (A), by substituting  
19           “0.3464” for “0.21”; and

20           (2) in subparagraph (B)(i), by substituting  
21           “0.3464” for “0.21”.

22       **SEC. 504. EXTENSION OF CUSTOMS USER FEES.**

23           (a) **IN GENERAL.**—Section 13031(j)(3)(A) of the  
24          Consolidated Omnibus Budget Reconciliation Act of 1985

1 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “January  
2 7, 2020” and inserting “August 2, 2021”.

3 (b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the  
4 Consolidated Omnibus Budget Reconciliation Act of 1985  
5 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking “Janu-  
6 ary 14, 2020” and inserting “December 8, 2020”.

7 **SEC. 505. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
8 **TAXES.**

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

13 (1) the amount of any required installment of  
14 corporate estimated tax which is otherwise due in  
15 July, August, or September of 2012 shall be in-  
16 creased by 0.25 percent of such amount (determined  
17 without regard to any increase in such amount not  
18 contained in such Code);

19 (2) the amount of any required installment of  
20 corporate estimated tax which is otherwise due in  
21 July, August, or September of 2016 shall be in-  
22 creased by 2.75 percent of such amount (determined  
23 without regard to any increase in such amount not  
24 contained in such Code); and

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

○