

## Calendar No. 480

110TH CONGRESS  
1ST SESSION**H. R. 3688**

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2007

Received; read twice and placed on the calendar

**AN ACT**To implement the United States-Peru Trade Promotion  
Agreement.

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

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

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

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

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

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

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

#### TITLE II—CUSTOMS PROVISIONS

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

#### TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

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

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

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

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

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

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

#### TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

#### TITLE V—TRADE IN TIMBER PRODUCTS OF PERU

- Sec. 501. Enforcement relating to trade in timber products of Peru.

Sec. 502. Report to Congress.

TITLE VI—OFFSETS

Sec. 601. Customs user fees.

Sec. 602. 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 Peru 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 strengthen and develop economic rela-  
9 tions between the United States and Peru for their  
10 mutual benefit;

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

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

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

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

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

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

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

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

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

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

23           (1) the United States-Peru Trade Promotion  
24 Agreement entered into on April 12, 2006, with the  
25 Government of Peru, as amended on June 24 and

1 June 25, 2007, respectively, by the United States  
2 and Peru, and submitted to Congress on September  
3 27, 2007; and

4 (2) the statement of administrative action pro-  
5 posed to implement the Agreement that was sub-  
6 mitted to Congress on September 27, 2007.

7 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE  
8 AGREEMENT.—At such time as the President determines  
9 that Peru has taken measures necessary to comply with  
10 those provisions of the Agreement that are to take effect  
11 on the date on which the Agreement enters into force, the  
12 President is authorized to exchange notes with the Gov-  
13 ernment of Peru providing for the entry into force, on or  
14 after January 1, 2008, of the Agreement with respect to  
15 the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) IMPLEMENTING ACTIONS.—

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

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

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

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

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

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

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

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



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

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

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

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

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

16 (B) the Commission;

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

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

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

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

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

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

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

18           (b) **AUTHORIZATION OF APPROPRIATIONS.—**There  
19           are authorized to be appropriated for each fiscal year after  
20           fiscal year 2007 to the Department of Commerce such  
21           sums as may be necessary for the establishment and oper-  
22           ations of the office established or designated under sub-  
23           section (a) and for the payment of the United States share  
24           of the expenses of panels established under chapter 21 of  
25           the Agreement.

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

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

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

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

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

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

19 **TITLE II—CUSTOMS PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

25 (4) such additional duties,

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

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

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

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

21 (a) **DEFINITIONS.**—In this section:

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

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

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

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

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

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

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

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

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

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

6           (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

7                   (1) IN GENERAL.—In addition to any duty pro-  
8           claimed under subsection (a) or (b) of section 201,  
9           the Secretary of the Treasury shall assess a duty, in  
10          the amount determined under paragraph (2), on a  
11          safeguard good imported into the United States in  
12          a calendar year if the Secretary determines that,  
13          prior to such importation, the total volume of that  
14          safeguard good that is imported into the United  
15          States in that calendar year exceeds 130 percent of  
16          the volume that is provided for that safeguard good  
17          in the corresponding year in the applicable table  
18          contained in Appendix I of the General Notes to the  
19          Schedule of the United States to Annex 2.3 of the  
20          Agreement. For purposes of this subsection, year 1  
21          in that table corresponds to the calendar year in  
22          which the Agreement enters into force.

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

1 (A) in years 1 through 12, an amount  
2 equal to 100 percent of the excess of the appli-  
3 cable NTR (MFN) rate of duty over the sched-  
4 ule rate of duty; and

5 (B) in years 13 through 16, an amount  
6 equal to 50 percent of the excess of the applica-  
7 ble NTR (MFN) rate of duty over the schedule  
8 rate of duty.

9 (3) NOTICE.—Not later than 60 days after the  
10 Secretary of the Treasury first assesses an addi-  
11 tional duty in a calendar year on a good under this  
12 subsection, the Secretary shall notify the Govern-  
13 ment of Peru in writing of such action and shall pro-  
14 vide to that Government data supporting the assess-  
15 ment of the additional duty.

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

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

20 (2) chapter 1 of title II of the Trade Act of  
21 1974 (19 U.S.C. 2251 et seq.).

22 (d) TERMINATION.—The assessment of an additional  
23 duty on a good under subsection (b) shall cease to apply  
24 to that good on the date on which duty-free treatment



1 must be provided to that good under the Schedule of the  
2 United States to Annex 2.3 of the Agreement.

3 **SEC. 203. 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 Peru 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 Peru, the United  
25 States, or both;

1 (2) the good—

2 (A) is produced entirely in the territory of  
3 Peru, 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 3–A or  
8 Annex 4.1 of the Agreement; or

9 (ii) the good otherwise satisfies any  
10 applicable regional value-content or other  
11 requirements specified in Annex 3–A or  
12 Annex 4.1 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 Peru, 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 4.1 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 that  
15 are acquired and used by the producer in  
16 the production of the good, but does not  
17 include the value of a material that is self-  
18 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:

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

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

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

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

7 (iii) VOM.—The term “VOM” means  
8 the value of originating materials that are  
9 acquired or self-produced, and used by the  
10 producer 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 4.1 of the  
16 Agreement shall be calculated by the importer,  
17 exporter, or producer of the good, on the basis  
18 of the following net cost method:

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

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

20 (i) AUTOMOTIVE GOOD.—The term  
21 “automotive good” means a good provided  
22 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 that  
11 are acquired and used by the producer in  
12 the production of the automotive good, but  
13 does not include the value of a material  
14 that is self-produced.

15 (C) MOTOR VEHICLES.—

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

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

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

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

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

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

23 (III) is the same model line of  
24 motor vehicles produced in the terri-  
25 tory of Peru or the United States as

1                   the good described in clause (i) for  
2                   which regional value-content is being  
3                   calculated.

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

12                  (i) average the amounts calculated  
13                  under the formula contained in subpara-  
14                  graph (A) over—

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

18                         (II) any quarter or month, or

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

21                  if the goods were produced during the fis-  
22                  cal year, quarter, or month that is the  
23                  basis for the calculation;

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

4           (iii) make a separate determination  
5           under clause (i) or (ii) for such goods that  
6           are exported to the territory of Peru or the  
7           United States.

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

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



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

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

19          (d) VALUE OF MATERIALS.—

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

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

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

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

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

22 (ii) an amount for profit equivalent to  
23 the profit added in the normal course of  
24 trade.

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

3           (A) ORIGINATING MATERIAL.—The fol-  
4 lowing expenses, if not included in the value of  
5 an originating material calculated under para-  
6 graph (1), may be added to the value of the  
7 originating 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 Peru, 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 Peru, 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 (B) NONORIGINATING MATERIAL.—The  
2 following expenses, if included in the value of a  
3 nonoriginating material calculated under para-  
4 graph (1), may be deducted from the value of  
5 the nonoriginating material:

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

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

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

23 (iv) The cost of originating materials  
24 used in the production of the nonorigi-

1                   nating material in the territory of Peru,  
2                   the United States, or both.

3           (e) ACCUMULATION.—

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

11                  (2) MULTIPLE PRODUCERS.—A good that is  
12                  produced in the territory of Peru, the United States,  
13                  or both, by 1 or more producers, is an originating  
14                  good if the good satisfies the requirements of sub-  
15                  section (b) and all other applicable requirements of  
16                  this section.

17           (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
18           TERIALS.—

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

23                           (A)(i) the value of all nonoriginating mate-  
24                           rials that—

1 (I) are used in the production of the  
2 good, and

3 (II) do not undergo the applicable  
4 change in tariff classification (set forth in  
5 Annex 4.1 of the Agreement),

6 does not exceed 10 percent of the adjusted  
7 value of the good;

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

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

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

17 (2) EXCEPTIONS.—Paragraph (1) does not  
18 apply to the following:

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

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

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

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

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

18 (iv) Goods provided for in heading  
19 2105.

20 (v) Beverages containing milk pro-  
21 vided for in subheading 2202.90.

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

1 (C) A nonoriginating material provided for  
2 in heading 0805, or any of subheadings  
3 2009.11 through 2009.39, that is used in the  
4 production of a good provided for in any of sub-  
5 headings 2009.11 through 2009.39, or in fruit  
6 or vegetable juice of any single fruit or vege-  
7 table, fortified with minerals or vitamins, con-  
8 centrated or unconcentrated, provided for in  
9 subheading 2106.90 or 2202.90.

10 (D) A nonoriginating material provided for  
11 in heading 0901 or 2101 that is used in the  
12 production of a good provided for in heading  
13 0901 or 2101.

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

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

23 (G) A nonoriginating material provided for  
24 in chapter 17 that is used in the production of  
25 a good provided for in subheading 1806.10.



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

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

11          (3) TEXTILE OR APPAREL GOODS.—

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

21                   (i) the total weight of all such fibers  
22                   or yarns in that component is not more  
23                   than 10 percent of the total weight of that  
24                   component; or

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

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 in  
12                  the territory of Peru, the United States, or  
13                  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 Peru 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                  4.1 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, regardless of whether such ac-  
17                   cessories, spare parts, or tools are specified or  
18                   are separately identified in the invoice for the  
19                   good; and

20                   (B) the quantities and value of the acces-  
21                   sories, spare parts, or tools are customary for  
22                   the good.

23           (3) REGIONAL VALUE-CONTENT.—If the good is  
24           subject to a regional value-content requirement, the  
25           value of the accessories, spare parts, or tools shall

1 be taken into account as originating or nonorigi-  
2 nating materials, as the case may be, in calculating  
3 the regional value-content of the good.

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

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

20 (k) INDIRECT MATERIALS.—An indirect material  
21 shall be treated as an originating material without regard  
22 to where it is produced.

23 (l) TRANSIT AND TRANSHIPMENT.—A good that has  
24 undergone production necessary to qualify as an origi-  
25 nating good under subsection (b) shall not be considered

1 to be an originating good if, subsequent to that produc-  
2 tion, the good—

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

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

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

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

20 (2) the total value of the nonoriginating goods  
21 in the set does not exceed—

22 (A) in the case of textile or apparel goods,  
23 10 percent of the adjusted value of the set; or

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

4 (n) DEFINITIONS.—In this section:

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

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

21 (A) Motor vehicles provided for in sub-  
22 heading 8701.20, 8704.10, 8704.22, 8704.23,  
23 8704.32, or 8704.90, or heading 8705 or 8706,  
24 or motor vehicles for the transport of 16 or

1 more persons provided for in subheading  
2 8702.10 or 8702.90.

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

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

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

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

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



1 and the preparation of financial statements. The  
2 principles may encompass broad guidelines of gen-  
3 eral application as well as detailed standards, prac-  
4 tices, and procedures.

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

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

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

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

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

22 (E) Minerals and other natural resources  
23 not included in subparagraphs (A) through (D)  
24 that are extracted or taken from the territory  
25 of Peru, 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 Peru or the United States by—

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

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

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

12 (i) is registered or recorded with Peru  
13 and flies the flag of Peru; or

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

16 (H)(i) Goods taken by Peru or a person of  
17 Peru from the seabed or subsoil outside the ter-  
18 ritorial waters of Peru, if Peru has rights to ex-  
19 ploit such seabed or subsoil.

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

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

6           (J) Waste and scrap derived from—

7               (i) manufacturing or processing oper-  
8 ations in the territory of Peru, the United  
9 States, or both; or

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

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

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

22               (i) goods referred to in any of sub-  
23 paragraphs (A) through (J), or

24               (ii) the derivatives of goods referred  
25 to in clause (i).

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

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

12                   (A) fuel and energy;

13                   (B) tools, dies, and molds;

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

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

19                   (E) gloves, glasses, footwear, clothing,  
20 safety equipment, and supplies;

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

23                   (G) catalysts and solvents; and

24                   (H) any other goods that are not incor-  
25 porated into the other good but the use of

1           which in the production of the other good can  
2           reasonably be demonstrated to be a part of that  
3           production.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (21) TOTAL COST.—

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

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

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

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

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

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

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



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

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

5 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

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

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

19 (3) MODIFICATIONS.—

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

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

3 (B) ADDITIONAL PROCLAMATIONS.—Not-  
4 withstanding subparagraph (A), and subject to  
5 the consultation and layover provisions of sec-  
6 tion 104, the President may proclaim before the  
7 end of the 1-year period beginning on the date  
8 of the enactment of this Act, modifications to  
9 correct any typographical, clerical, or other non-  
10 substantive technical error regarding the provi-  
11 sions of chapters 50 through 63 (as included in  
12 Annex 3–A of the Agreement).

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

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

21 (B) DEFINITIONS.—In this paragraph:

22 (i) The term “interested entity”  
23 means the Government of Peru, a potential  
24 or actual purchaser of a textile or apparel

1 good, or a potential or actual supplier of a  
2 textile or apparel good.

3 (ii) All references to “day” and  
4 “days” exclude Saturdays, Sundays, and  
5 legal holidays observed by the Government  
6 of the United States.

7 (C) REQUESTS TO ADD FABRICS, YARNS,  
8 OR FIBERS.—(i) An interested entity may re-  
9 quest the President to determine that a fabric,  
10 yarn, or fiber is not available in commercial  
11 quantities in a timely manner in Peru and the  
12 United States and to add that fabric, yarn, or  
13 fiber to the list in Annex 3–B of the Agreement  
14 in a restricted or unrestricted quantity.

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

17 (I) the fabric, yarn, or fiber is avail-  
18 able in commercial quantities in a timely  
19 manner in Peru or the United States; or

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

22 (iii) The President may, within the time  
23 periods specified in clause (iv), proclaim that  
24 the fabric, yarn, or fiber that is the subject of  
25 the request is added to the list in Annex 3–B

1 of the Agreement in an unrestricted quantity,  
2 or in any restricted quantity that the President  
3 may establish, if the President has determined  
4 under clause (ii) that—

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

9 (II) no interested entity has objected  
10 to the request.

11 (iv) The time periods within which the  
12 President may issue a proclamation under  
13 clause (iii) are—

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

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

24 (v) Notwithstanding section 103(a)(2), a  
25 proclamation made under clause (iii) shall take

1 effect on the date on which the text of the pro-  
2 clamation is published in the Federal Register.

3 (vi) Not later than 6 months after pro-  
4 claiming under clause (iii) that a fabric, yarn,  
5 or fiber is added to the list in Annex 3–B of the  
6 Agreement in a restricted quantity, the Presi-  
7 dent may eliminate the restriction if the Presi-  
8 dent determines that the fabric, yarn, or fiber  
9 is not available in commercial quantities in a  
10 timely manner in Peru and the United States.

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

21 (i) 45 days after the date on which  
22 the request was submitted; or

23 (ii) 60 days after the date on which  
24 the request was submitted, if the President

1           made a determination under subparagraph  
2           (C)(iv)(II).

3           (E) REQUESTS TO RESTRICT OR REMOVE  
4 FABRICS, YARNS, OR FIBERS.—(i) Subject to  
5 clause (ii), an interested entity may request the  
6 President to restrict the quantity of, or remove  
7 from the list in Annex 3–B of the Agreement,  
8 any fabric, yarn, or fiber—

9           (I) that has been added to that list in  
10 an unrestricted quantity pursuant to para-  
11 graph (2) or subparagraph (C)(iii) or (D)  
12 of this paragraph; or

13           (II) with respect to which the Presi-  
14 dent has eliminated a restriction under  
15 subparagraph (C)(vi).

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

20           (iii) Not later than 30 days after the date  
21 on which a request under clause (i) is sub-  
22 mitted, the President may proclaim an action  
23 provided for under clause (i) if the President  
24 determines that the fabric, yarn, or fiber that  
25 is the subject of the request is available in com-

1           merchial quantities in a timely manner in Peru  
2           or the United States.

3                   (iv) A proclamation under clause (iii) shall  
4           take effect no earlier than the date that is 6  
5           months after the date on which the text of the  
6           proclamation is published in the Federal Reg-  
7           ister.

8                   (F) PROCEDURES.—The President shall  
9           establish procedures—

10                   (i) governing the submission of a re-  
11           quest under subparagraphs (C) and (E);  
12           and

13                   (ii) providing an opportunity for inter-  
14           ested entities to submit comments and sup-  
15           porting evidence before the President  
16           makes a determination under subpara-  
17           graph (C) (ii) or (vi) or (E)(iii).

18 **SEC. 204. CUSTOMS USER FEES.**

19           Section 13031(b) of the Consolidated Omnibus Budg-  
20           et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is  
21           amended by adding after paragraph (17) the following:

22                   “(18) No fee may be charged under subsection (a)  
23           (9) or (10) with respect to goods that qualify as origi-  
24           nating goods under section 203 of the United States-Peru  
25           Trade Promotion Agreement Implementation Act. Any

1 service for which an exemption from such fee is provided  
2 by reason of this paragraph may not be funded with  
3 money contained in the Customs User Fee Account.”.

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

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

10 (1) in subsection (c)—

11 (A) by redesignating paragraph (10) as  
12 paragraph (11); and

13 (B) by inserting after paragraph (9) the  
14 following new paragraph:

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



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

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

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

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

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

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

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

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

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

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

18 “(i) DENIAL OF PREFERENTIAL TARIFF TREATMENT  
19 UNDER THE UNITED STATES-PERU TRADE PROMOTION  
20 AGREEMENT.—If U.S. Customs and Border Protection or  
21 U.S. Immigration and Customs Enforcement of the De-  
22 partment of Homeland Security finds indications of a pat-  
23 tern of conduct by an importer, exporter, or producer of  
24 false or unsupported representations that goods qualify  
25 under the rules of origin provided for in section 203 of

1 the United States-Peru Trade Promotion Agreement Im-  
2 plementation Act, U.S. Customs and Border Protection,  
3 in accordance with regulations issued by the Secretary of  
4 the Treasury, may suspend preferential tariff treatment  
5 under the United States-Peru Trade Promotion Agree-  
6 ment to entries of identical goods covered by subsequent  
7 representations by that importer, exporter, or producer  
8 until U.S. Customs and Border Protection determines that  
9 representations of that person are in conformity with such  
10 section 203.”.

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

12 Subsection (d) of section 520 of the Tariff Act of  
13 1930 (19 U.S.C. 1520(d)) is amended in the matter pre-  
14 ceding paragraph (1)—

15 (1) by striking “or”; and

16 (2) by striking “for which” and inserting “, or  
17 section 203 of the United States-Peru Trade Pro-  
18 motion Agreement Implementation Act for which”.

19 **SEC. 207. RECORDKEEPING REQUIREMENTS.**

20 Section 508 of the Tariff Act of 1930 (19 U.S.C.  
21 1508) is amended—

22 (1) by redesignating subsection (h) as sub-  
23 section (i);

24 (2) by inserting after subsection (g) the fol-  
25 lowing new subsection:

1       “(h) CERTIFICATIONS OF ORIGIN FOR GOODS EX-  
2 PORTED UNDER THE UNITED STATES-PERU TRADE PRO-  
3 MOTION AGREEMENT.—

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

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

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

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

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

19               “(B) PTPA CERTIFICATION OF ORIGIN.—  
20 The term ‘PTPA certification of origin’ means  
21 the certification established under article 4.15  
22 of the United States-Peru Trade Promotion  
23 Agreement that a good qualifies as an origi-  
24 nating good under such Agreement.

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

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

16           (3) in subsection (i), as so redesignated—

17           (A) by striking “(f) or (g)” and inserting  
18 “(f), (g), or (h)”;

19           (B) by striking “either such subsection”  
20 and inserting “any such subsection”.

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

23           (a) ACTION DURING VERIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

21 **SEC. 209. REGULATIONS.**

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

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

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

1           (3) any proclamation issued under section  
2           203(o).

## 3           **TITLE III—RELIEF FROM** 4           **IMPORTS**

### 5   **SEC. 301. DEFINITIONS.**

6           In this title:

7           (1) PERUVIAN ARTICLE.—The term “Peruvian  
8           article” means an article that qualifies as an origi-  
9           nating good under section 203(b).

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

## 14          **Subtitle A—Relief From Imports** 15          **Benefiting From the Agreement**

### 16   **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

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

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

13           (c) APPLICABLE PROVISIONS.—The following provi-  
14 sions of section 202 of the Trade Act of 1974 (19 U.S.C.  
15 2252) apply with respect to any investigation initiated  
16 under subsection (b):

17           (1) Paragraphs (1)(B) and (3) of subsection  
18           (b).

19           (2) Subsection (c).

20           (3) Subsection (i).

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

1 provided with respect to that Peruvian article under this  
2 subtitle.

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

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

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

15 (c) ADDITIONAL FINDING AND RECOMMENDATION IF  
16 DETERMINATION AFFIRMATIVE.—

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

1 amount of import relief that is necessary to remedy  
2 or prevent the injury found by the Commission in  
3 the determination and to facilitate the efforts of the  
4 domestic industry to make a positive adjustment to  
5 import competition.

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

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

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

1           (1) the determination made under subsection  
2           (a) and an explanation of the basis for the deter-  
3           mination;

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

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

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

18          **SEC. 313. PROVISION OF RELIEF.**

19          (a) IN GENERAL.—Not later than the date that is  
20          30 days after the date on which the President receives the  
21          report of the Commission in which the Commission's de-  
22          termination under section 312(a) is affirmative, or which  
23          contains a determination under section 312(a) that the  
24          President considers to be affirmative under paragraph (1)  
25          of section 330(d) of the Tariff Act of 1930 (19 U.S.C.

1 1330(d)(1)), the President, subject to subsection (b), shall  
2 provide relief from imports of the article that is the subject  
3 of such determination to the extent that the President de-  
4 termines necessary to remedy or prevent the injury found  
5 by the Commission and to facilitate the efforts of the do-  
6 mestic industry to make a positive adjustment to import  
7 competition.

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

12 (c) NATURE OF RELIEF.—

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

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

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

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



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

5                   (2) PROGRESSIVE LIBERALIZATION.—If the pe-  
6                   riod for which import relief is provided under this  
7                   section is greater than 1 year, the President shall  
8                   provide for the progressive liberalization (described  
9                   in article 8.2.2 of the Agreement) of such relief at  
10                  regular intervals during the period of its application.

11                  (d) PERIOD OF RELIEF.—

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

16                   (2) EXTENSION.—

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

1 provided under this section by up to 2 years, if  
2 the President determines that—

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

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

10 (B) ACTION BY COMMISSION.—

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

24 (ii) NOTICE AND HEARING.—The  
25 Commission shall publish notice of the

1 commencement of any proceeding under  
2 this subparagraph in the Federal Register  
3 and shall, within a reasonable time there-  
4 after, hold a public hearing at which the  
5 Commission shall afford interested parties  
6 and consumers an opportunity to be  
7 present, to present evidence, and to re-  
8 spond to the presentations of other parties  
9 and consumers, and otherwise to be heard.

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

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

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

24 (1) the rate of duty on that article after such  
25 termination and on or before December 31 of the

1 year in which such termination occurs shall be the  
2 rate that, according to the Schedule of the United  
3 States to Annex 2.3 of the Agreement, would have  
4 been in effect 1 year after the provision of relief  
5 under subsection (a); and

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

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

13 (B) the rate of duty resulting from the  
14 elimination of the tariff in equal annual stages  
15 ending on the date set forth in the Schedule of  
16 the United States to Annex 2.3 of the Agree-  
17 ment for the elimination of the tariff.

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

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

22 (A) subtitle B; or

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

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

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

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

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

15 **SEC. 315. COMPENSATION AUTHORITY.**

16           For purposes of section 123 of the Trade Act of 1974  
17 (19 U.S.C. 2133), any import relief provided by the Presi-  
18 dent under section 313 shall be treated as action taken  
19 under chapter 1 of title II of such Act (19 U.S.C. 2251  
20 et seq.).

21 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

24           (1) by striking “and”; and

1           (2) by inserting before the period at the end “,  
2           and title III of the United States-Peru Trade Pro-  
3           motion Agreement Implementation Act”.

4           **Subtitle B—Textile and Apparel**  
5           **Safeguard Measures**

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

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

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

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

23          (a) DETERMINATION.—

24                  (1) IN GENERAL.—If a positive determination is  
25          made under section 321(b), the President shall de-

1       termine whether, as a result of the elimination of a  
2       duty under the Agreement, a Peruvian textile or ap-  
3       parel article is being imported into the United States  
4       in such increased quantities, in absolute terms or  
5       relative to the domestic market for that article, and  
6       under such conditions as to cause serious damage,  
7       or actual threat thereof, to a domestic industry pro-  
8       ducing an article that is like, or directly competitive  
9       with, the imported article.

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

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

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

25       (b) PROVISION OF RELIEF.—

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

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

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

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

21 **SEC. 323. PERIOD OF RELIEF.**

22          (a) IN GENERAL.—Subject to subsection (b), the im-  
23          port relief that the President provides under section  
24          322(b) may not be in effect for more than 2 years.

25          (b) EXTENSION.—



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

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

10                   (B) there is evidence that the industry is  
11                   making a positive adjustment to import com-  
12                   petition.

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

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

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

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

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

24                           (A) subtitle A; or

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

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

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

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

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

12 **SEC. 327. COMPENSATION AUTHORITY.**

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

18 **SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

19 The President may not release information received  
20 in connection with an investigation or determination under  
21 this subtitle which the President considers to be confiden-  
22 tial business information unless the party submitting the  
23 confidential business information had notice, at the time  
24 of submission, that such information would be released by  
25 the President, or such party subsequently consents to the

1 release of the information. To the extent a party submits  
2 confidential business information, the party shall also pro-  
3 vide a nonconfidential version of the information in which  
4 the confidential business information is summarized or, if  
5 necessary, deleted.

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

8 **SEC. 331. FINDINGS AND ACTION ON GOODS OF PERU.**

9 (a) EFFECT OF IMPORTS.—If, in any investigation  
10 initiated under chapter 1 of title II of the Trade Act of  
11 1974 (19 U.S.C. 2251 et seq.), the Commission makes an  
12 affirmative determination (or a determination which the  
13 President may treat as an affirmative determination under  
14 such chapter by reason of section 330(d) of the Tariff Act  
15 of 1930), the Commission shall also find (and report to  
16 the President at the time such injury determination is sub-  
17 mitted to the President) whether imports of the article of  
18 Peru that qualify as originating goods under section  
19 203(b) are a substantial cause of serious injury or threat  
20 thereof.

21 (b) PRESIDENTIAL DETERMINATION REGARDING IM-  
22 PORTS OF PERU.—In determining the nature and extent  
23 of action to be taken under chapter 1 of title II of the  
24 Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President  
25 may exclude from the action goods of Peru with respect

1 to which the Commission has made a negative finding  
2 under subsection (a).

### 3 **TITLE IV—PROCUREMENT**

#### 4 **SEC. 401. ELIGIBLE PRODUCTS.**

5 Section 308(4)(A) of the Trade Agreements Act of  
6 1979 (19 U.S.C. 2518(4)(A)) is amended—

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

8 (2) by striking the period at the end of clause  
9 (vi) and inserting “; or”; and

10 (3) by adding at the end the following new  
11 clause:

12 “(vii) a party to the United States-  
13 Peru Trade Promotion Agreement, a prod-  
14 uct or service of that country or instru-  
15 mentality which is covered under that  
16 agreement for procurement by the United  
17 States.”.

### 18 **TITLE V—TRADE IN TIMBER**

#### 19 **PRODUCTS OF PERU**

#### 20 **SEC. 501. ENFORCEMENT RELATING TO TRADE IN TIMBER**

#### 21 **PRODUCTS OF PERU.**

22 (a) ESTABLISHMENT OF INTERAGENCY COM-  
23 MITTEE.—Not later than 90 days after the date on which  
24 the Agreement enters into force, the President shall estab-  
25 lish an Interagency Committee (in this section referred to

1 as the “Committee”). The Committee shall be responsible  
2 for overseeing the implementation of Annex 18.3.4 of the  
3 Agreement, including by undertaking such actions and  
4 making such determinations provided for in this section  
5 that are not otherwise authorized under law.

6 (b) AUDIT.—The Committee may request that the  
7 Government of Peru conduct an audit, pursuant to para-  
8 graph 6(b) of Annex 18.3.4 of the Agreement, to deter-  
9 mine whether a particular producer or exporter in Peru  
10 is complying with all applicable laws, regulations, and  
11 other measures of Peru governing the harvest of, and  
12 trade in, timber products.

13 (c) VERIFICATION.—

14 (1) IN GENERAL.—The Committee may request  
15 the Government of Peru to conduct a verification,  
16 pursuant to paragraph 7 of Annex 18.3.4 of the  
17 Agreement, for the purpose of determining whether,  
18 with respect to a particular shipment of timber prod-  
19 ucts from Peru to the United States, the producer  
20 or exporter of the products has complied with appli-  
21 cable laws, regulations, and other measures of Peru  
22 governing the harvest of, and trade in, the products.

23 (2) ACTIONS OF COMMITTEE.—If the Com-  
24 mittee requests a verification under paragraph (1),  
25 the Committee shall—

1 (A) to the extent authorized under law,  
2 provide the Government of Peru with trade and  
3 transit documents and other information to as-  
4 sist Peru in conducting the verification; and

5 (B) direct U.S. Customs and Border Pro-  
6 tection to take any appropriate action described  
7 in paragraph (4).

8 (3) REQUEST TO PARTICIPATE IN  
9 VERIFICATION VISIT.—The Committee may request  
10 the Government of Peru to permit officials of any  
11 agency represented on the Committee to participate  
12 in any visit conducted by Peru of the premises of a  
13 person that is the subject of the verification re-  
14 quested under paragraph (1) (in this section referred  
15 to as a “verification visit”). Such request shall be  
16 submitted in writing not later than 10 days before  
17 any scheduled verification visit and shall identify the  
18 names and titles of the officials intending to partici-  
19 pate.

20 (4) APPROPRIATE ACTION PENDING THE RE-  
21 SULTS OF VERIFICATION.—While the results of a  
22 verification requested under paragraph (1) are pend-  
23 ing, the Committee may direct U.S. Customs and  
24 Border Protection to—

1 (A) detain the shipment that is the subject  
2 of the verification; or

3 (B) if the Committee has requested under  
4 paragraph (3) to have an official of any agency  
5 represented on the Committee participate in the  
6 verification visit and the Government of Peru  
7 has denied the request, deny entry to the ship-  
8 ment that is the subject of the verification.

9 (5) DETERMINATION UPON RECEIPT OF RE-  
10 PORT.—

11 (A) IN GENERAL.—Within a reasonable  
12 time after the Government of Peru provides a  
13 report to the Committee describing the results  
14 of a verification requested under paragraph (1),  
15 the Committee shall determine whether any ac-  
16 tion is appropriate.

17 (B) DETERMINATION OF APPROPRIATE AC-  
18 TION.—In determining the appropriate action  
19 to take and the duration of the action, the  
20 Committee shall consider any relevant factors,  
21 including—

22 (i) the verification report issued by  
23 the Government of Peru;

24 (ii) any information that officials of  
25 the United States have obtained regarding

1 the shipment or person that is the subject  
2 of the verification; and

3 (iii) any information that officials of  
4 the United States have obtained during a  
5 verification visit.

6 (6) NOTIFICATION.—Before directing that ac-  
7 tion be taken under paragraph (7), the Committee  
8 shall notify the Government of Peru in writing of  
9 the action that will be taken and the duration of the  
10 action.

11 (7) APPROPRIATE ACTION.—If the Committee  
12 makes an affirmative determination under para-  
13 graph (5), it may take any action with respect to the  
14 shipment that was the subject of the verification, or  
15 the products of the relevant producer or exporter,  
16 that the Committee considers appropriate, including  
17 directing U.S. Customs and Border Protection to—

18 (A) deny entry to the shipment;

19 (B) if a determination has been made that  
20 a producer or exporter has knowingly provided  
21 false information to officials of Peru or the  
22 United States regarding a shipment, deny entry  
23 to products of that producer or exporter derived  
24 from any tree species listed in Appendices to  
25 the Convention on International Trade in En-



1           dangered Species of Wild Fauna and Flora,  
2           done at Washington March 3, 1973 (27 UST  
3           1087; TIAS 8249); or

4           (C) take any other action the Committee  
5           determines to be appropriate.

6           (8) TERMINATION OF APPROPRIATE ACTION.—  
7           Any action under paragraph (7)(B) shall terminate  
8           not later than the later of—

9           (A) the end of the period specified in the  
10          written notification pursuant to paragraph (6);  
11          or

12          (B) 15 days after the date on which the  
13          Government of Peru submits to the United  
14          States the results of an audit under paragraph  
15          6 of Annex 18.3.4 of the Agreement that con-  
16          cludes that the person has complied with all ap-  
17          plicable laws, regulations, and other measures  
18          of Peru governing the harvest of, and trade in,  
19          timber products.

20          (9) FAILURE TO PROVIDE VERIFICATION RE-  
21          PORT.—If the Committee determines that the Gov-  
22          ernment of Peru has failed to provide a verification  
23          report, as required by paragraph 12 of Annex 18.3.4  
24          of the Agreement, the Committee may take such ac-  
25          tion with respect to the relevant exporter's timber

1 products as the Committee considers appropriate, in-  
2 cluding any action described in paragraph (7).

3 (d) CONFIDENTIALITY OF INFORMATION.—The Com-  
4 mittee and any agency represented on the Committee shall  
5 not disclose to the public, except with the specific permis-  
6 sion of the Government of Peru, any documents or infor-  
7 mation received in the course of an audit under subsection  
8 (b) or in the course of a verification under subsection (c).

9 (e) PUBLICLY AVAILABLE INFORMATION.—The Com-  
10 mittee shall make any information exchanged with Peru  
11 under paragraph 17 of Annex 18.3.4 of the Agreement  
12 publicly available in a timely manner, in accordance with  
13 paragraph 18 of Annex 18.3.4 of the Agreement.

14 (f) COORDINATION WITH OTHER LAWS.—

15 (1) ENDANGERED SPECIES ACT; LACEY ACT.—

16 In implementing this section, the Secretary of Agri-  
17 culture, the Secretary of the Interior, the Secretary  
18 of Homeland Security, and the Secretary of the  
19 Treasury shall provide for appropriate coordination  
20 with the administration of the Endangered Species  
21 Act of 1973 (16 U.S.C. 1531 et seq.) and the Lacey  
22 Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

23 (2) OTHER LAWS.—Nothing in this section su-  
24 persedes or limits in any manner the functions or  
25 authority of the Secretary of Agriculture, the Sec-

1       retary of the Interior, the Secretary of Homeland  
2       Security, or the Secretary of the Treasury under any  
3       other law, including laws relating to prohibited or  
4       restricted importations or possession of animals,  
5       plants, or other articles.

6               (3) EFFECT OF DETERMINATION.—No deter-  
7       mination under this section shall preclude any pro-  
8       ceeding or be considered determinative of any issue  
9       of fact or law in any proceeding under any law ad-  
10      ministered by the Secretary of Agriculture, the Sec-  
11      retary of the Interior, the Secretary of Homeland  
12      Security, or the Secretary of the Treasury.

13              (g) FURTHER IMPLEMENTATION.—The Secretary of  
14      Agriculture, the Secretary of the Interior, the Secretary  
15      of Homeland Security, and the Secretary of the Treasury,  
16      in consultation with the Committee, shall prescribe such  
17      regulations as are necessary to carry out this section.

18              (h) RESOURCES FOR IMPLEMENTATION.—Not later  
19      than 90 days after the date on which the Agreement en-  
20      ters into force, and as appropriate thereafter, the Presi-  
21      dent shall consult with the Committee on Finance of the  
22      Senate and the Committee on Ways and Means of the  
23      House of Representatives on the resources, including  
24      staffing, needed to implement Annex 18.3.4 of the Agree-  
25      ment.

1 **SEC. 502. REPORT TO CONGRESS.**

2 (a) IN GENERAL.—The United States Trade Rep-  
3 resentative, in consultation with the appropriate agencies,  
4 including U.S. Customs and Border Protection, the  
5 United States Fish and Wildlife Service, the Animal and  
6 Plant Health Inspection Service, the Forest Service, and  
7 the Department of State, shall report to the Committee  
8 on Finance of the Senate and the Committee on Ways and  
9 Means of the House of Representatives on—

10 (1) steps the United States and Peru have  
11 taken to carry out Annex 18.3.4 of the Agreement;  
12 and

13 (2) activities related to forest sector governance  
14 carried out under the Environmental Cooperation  
15 Agreement entered into between the United States  
16 and Peru on July 24, 2006.

17 (b) TIMING OF REPORT.—The United States Trade  
18 Representative shall report to the Committee on Finance  
19 of the Senate and the Committee on Ways and Means of  
20 the House of Representatives under subsection (a)—

21 (1) not later than 1 year after the date on  
22 which the Agreement enters into force;

23 (2) not later than 2 years after the date on  
24 which the Agreement enters into force; and

25 (3) periodically thereafter.

**TITLE VI—OFFSETS**

1

**2 SEC. 601. CUSTOMS USER FEES.**

3 (a) Section 13031(j)(3)(A) of the Consolidated Omni-  
4 bus Budget Reconciliation Act of 1985 (19 U.S.C.  
5 58c(j)(3)(A)) is amended by striking “October 21, 2014”  
6 and inserting “December 13, 2014”.

7 (b) Section 13031(j)(3)(B)(i) of the Consolidated  
8 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.  
9 58c(j)(3)(B)(i)) is amended by striking “October 7, 2014”  
10 and inserting “December 13, 2014”.

**11 SEC. 602. TIME FOR PAYMENT OF CORPORATE ESTIMATED  
12 TAXES.**

13 Subparagraph (B) of section 401(1) of the Tax In-  
14 crease Prevention and Reconciliation Act of 2005 (26  
15 U.S.C. 6655 note) is amended by striking “115 percent”  
16 and inserting “115.75 percent”.

Passed the House of Representatives November 8,  
2007.

Attest: LORRAINE C. MILLER,  
*Clerk.*

Calendar No. 480

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3688**

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**AN ACT**

To implement the United States-Peru Trade  
Promotion Agreement.

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NOVEMBER 13, 2007

Received; read twice and placed on the calendar