

Union Calendar No. 157

112TH CONGRESS
1ST SESSION

H. R. 3079

[Report No. 112-238]

To implement the United States–Panama Trade Promotion Agreement.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2011

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

OCTOBER 6, 2011

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To implement the United States–Panama Trade Promotion
Agreement.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “United States–Panama Trade Promotion Agreement Im-
 6 plementation Act”.

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, pro-
claimed 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; de-
nial of preferential tariff treatment.

Sec. 206. Reliquidation of entries.

Sec. 207. Recordkeeping requirements.

Sec. 208. Enforcement relating to trade in textile or apparel goods.

Sec. 209. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefitting From the Agreement

Sec. 311. Commencing of action for relief.

Sec. 312. Commission action on petition.

Sec. 313. Provision of relief.

Sec. 314. Termination of relief authority.

Sec. 315. Compensation authority.
 Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

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

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

Sec. 331. Findings and action on Panamanian articles.

TITLE IV—MISCELLANEOUS

Sec. 401. Eligible products.
 Sec. 402. Modification to the Caribbean Basin Economic Recovery Act.

TITLE V—OFFSETS

Sec. 501. Extension of customs user fees.
 Sec. 502. Time for payment of corporate estimated taxes.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

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

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

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

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

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

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

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

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

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

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

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

11 (1) the United States–Panama Trade Pro-
12 motion Agreement entered into on June 28, 2007,
13 with the Government of Panama and submitted to
14 Congress on October 3, 2011; and

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

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

1 force, on or after January 1, 2012, of the Agreement with
2 respect to the United States.

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

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

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

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

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

16 (B) to limit any authority conferred under
17 any law of the United States,
18 unless specifically provided for in this Act.

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

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

1 United States for the purpose of declaring such law
2 or application invalid.

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

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

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

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

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

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

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

24 (a) IMPLEMENTING ACTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

4 (B) the Commission;

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

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

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

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

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

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

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

1 responsible for providing administrative assistance to pan-
2 els established under chapter 20 of the Agreement. The
3 office shall not be considered to be an agency for purposes
4 of section 552 of title 5, United States Code.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated for each fiscal year after
7 fiscal year 2011 to the Department of Commerce up to
8 \$150,000 for the establishment and operations of the of-
9 fice established or designated under subsection (a) and for
10 the payment of the United States share of the expenses
11 of panels established under chapter 20 of the Agreement.

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

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

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

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

24 (b) EXCEPTIONS.—

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

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

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

15 **TITLE II—CUSTOMS PROVISIONS**

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

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

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

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

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

25 (C) such additional duties,

1 as the President determines to be necessary or ap-
2 propriate to carry out or apply articles 3.3, 3.5, 3.6,
3 3.26, 3.27, 3.28, and 3.29, and Annex 3.3, of the
4 Agreement.

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

12 (3) EFFECT ON CBERA STATUS.—

13 (A) IN GENERAL.—Notwithstanding sec-
14 tion 212(a) of the Caribbean Basin Economic
15 Recovery Act (19 U.S.C. 2702(a)), the Presi-
16 dent shall, on the date on which the Agreement
17 enters into force, terminate the designation of
18 Panama as a beneficiary country for purposes
19 of that Act.

20 (B) EXCEPTION.—Notwithstanding sub-
21 paragraph (A), Panama shall be considered a
22 beneficiary country under section 212(a) of the
23 Caribbean Basin Economic Recovery Act, for
24 purposes of—

1 (i) sections 771(7)(G)(ii)(III) and
2 771(7)(H) of the Tariff Act of 1930 (19
3 U.S.C. 1677(7)(G)(ii)(III) and
4 1677(7)(H));

5 (ii) the duty-free treatment provided
6 under paragraph 4 of the General Notes to
7 the Schedule of the United States to
8 Annex 3.3 of the Agreement; and

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

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

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

16 (2) such modifications as the United States
17 may agree to with Panama regarding the staging of
18 any duty treatment set forth in Annex 3.3 of the
19 Agreement,

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

22 (4) such additional duties,

23 as the President determines to be necessary or appropriate
24 to maintain the general level of reciprocal and mutually

1 advantageous concessions with respect to Panama pro-
 2 vided for by the Agreement.

3 (c) CONVERSION TO AD VALOREM RATES.—For pur-
 4 poses of subsections (a) and (b), with respect to any good
 5 for which the base rate in the Schedule of the United
 6 States to Annex 3.3 of the Agreement is a specific or com-
 7 pound rate of duty, the President may substitute for the
 8 base rate an ad valorem rate that the President deter-
 9 mines to be equivalent to the base rate.

10 (d) TARIFF RATE QUOTAS.—In implementing the
 11 tariff rate quotas set forth in Appendix I to the General
 12 Notes to the Schedule of the United States to Annex 3.3
 13 of the Agreement, the President shall take such action as
 14 may be necessary to ensure that imports of agricultural
 15 goods do not disrupt the orderly marketing of commodities
 16 in the United States.

17 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**
 18 **TURAL GOODS.**

19 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

15 (B) that qualifies as an originating good
16 under section 203; and

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

19 (3) SCHEDULE RATE OF DUTY.—The term
20 “schedule rate of duty” means, with respect to a
21 safeguard good, the rate of duty for that good that
22 is set forth in the Schedule of the United States to
23 Annex 3.3 of the Agreement.

24 (4) TRIGGER LEVEL.—

1 (A) IN GENERAL.—The term “trigger
2 level” means—

3 (i) in the case of a safeguard good
4 classified under subheading 0201.10.50,
5 0201.20.80, 0201.30.80, 0202.10.50,
6 0202.20.80, or 0202.30.80 of the HTS—

7 (I) in year 1 of the Agreement,
8 330 metric tons; and

9 (II) in year 2 of the Agreement
10 through year 14 of the Agreement, a
11 quantity equal to 110 percent of the
12 trigger level for that safeguard good
13 for the preceding calendar year; and

14 (ii) in the case of any other safeguard
15 good, 115 percent of the quantity that is
16 provided for that safeguard good in the
17 corresponding calendar year in the applica-
18 ble table contained in Appendix I to the
19 General Notes to the Schedule of the
20 United States to Annex 3.3 of the Agree-
21 ment.

22 (B) RELATIONSHIP TO TABLE.—For pur-
23 poses of subparagraph (A)(ii), year 1 in the ap-
24 plicable table contained in Appendix I to the
25 General Notes to the Schedule of the United

1 States to Annex 3.3 of the Agreement cor-
2 responds to year 1 of the Agreement.

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

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

13 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

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

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

4 (A) in the case of a good classified under
5 subheading 0201.10.50, 0201.20.80,
6 0201.30.80, 0202.10.50, 0202.20.80, or
7 0202.30.80 of the HTS—

8 (i) in year 1 of the Agreement
9 through year 6 of the Agreement, an
10 amount equal to 100 percent of the excess
11 of the applicable NTR (MFN) rate of duty
12 over the schedule rate of duty; and

13 (ii) in year 7 of the Agreement
14 through year 14 of the Agreement, an
15 amount equal to 50 percent of the excess
16 of the applicable NTR (MFN) rate of duty
17 over the schedule rate of duty;

18 (B) in the case of a good classified under
19 subheading 0406.10.08, 0406.10.88,
20 0406.20.91, 0406.30.91, 0406.90.97, or
21 2105.00.20 of the HTS—

22 (i) in year 1 of the Agreement
23 through year 11 of the Agreement, an
24 amount equal to 100 percent of the excess

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

3 (ii) in year 12 of the Agreement
4 through year 14 of the Agreement, an
5 amount equal to 50 percent of the excess
6 of the applicable NTR (MFN) rate of duty
7 over the schedule rate of duty; and

8 (C) in the case of any other safeguard
9 good—

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

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

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

1 action and shall provide to that Government data
2 supporting the assessment of the additional duty.

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

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

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

9 (d) TERMINATION.—The assessment of an additional
10 duty on a good under subsection (b) shall cease to apply
11 to that good on the date on which duty-free treatment
12 must be provided to that good under the Schedule of the
13 United States to Annex 3.3 of the Agreement.

14 **SEC. 203. RULES OF ORIGIN.**

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

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

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

23 (3) COST OR VALUE.—Any cost or value re-
24 ferred to in this section shall be recorded and main-
25 tained in accordance with the generally accepted ac-

1 counting principles applicable in the territory of the
2 country in which the good is produced (whether
3 Panama or the United States).

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

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

12 (2) the good—

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

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

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

24 (B) satisfies all other applicable require-
25 ments of this section; or

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

5 (c) REGIONAL VALUE-CONTENT.—

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

14 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

13 (3) BUILD-UP METHOD.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (C) MOTOR VEHICLES.—

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

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

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

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

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

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

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

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

24 (D) OTHER AUTOMOTIVE GOODS.—For
25 purposes of determining the regional value-con-

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

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

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

13 (II) any quarter or month, or

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

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

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

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

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

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

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

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

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

11 (d) VALUE OF MATERIALS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (e) ACCUMULATION.—

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

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

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

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

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

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

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

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

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

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

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

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

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

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

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

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

1 (iv) Goods provided for in heading
2 2105.

3 (v) Beverages containing milk pro-
4 vided for in subheading 2202.90.

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

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

17 (D) A nonoriginating material provided for
18 in heading 0901 or 2101 that is used in the
19 production of a good provided for in heading
20 0901 or 2101.

21 (E) A nonoriginating material provided for
22 in heading 1006 that is used in the production
23 of a good provided for in heading 1102 or 1103
24 or subheading 1904.90.

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

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

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

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

19 (3) TEXTILE OR APPAREL GOODS.—

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

1 applicable change in tariff classification, set
2 forth in Annex 4.1 of the Agreement, shall be
3 considered to be an originating good if—

4 (i) the total weight of all such fibers
5 or yarns in that component is not more
6 than 10 percent of the total weight of that
7 component; or

8 (ii) the yarns are those described in
9 section 204(b)(3)(B)(vi)(IV) of the Andean
10 Trade Preference Act (19 U.S.C.
11 3203(b)(3)(B)(vi)(IV)) (as in effect on
12 February 12, 2011).

13 (B) CERTAIN TEXTILE OR APPAREL
14 GOODS.—A textile or apparel good containing
15 elastomeric yarns in the component of the good
16 that determines the tariff classification of the
17 good shall be considered to be an originating
18 good only if such yarns are wholly formed and
19 finished in the territory of Panama, the United
20 States, or both.

21 (C) FABRIC, YARN, OR FIBER.—For pur-
22 poses of this paragraph, in the case of a good
23 that is a fabric, yarn, or fiber, the term “com-
24 ponent of the good that determines the tariff

1 classification of the good” means all of the fi-
 2 bers in the good.

3 (g) FUNGIBLE GOODS AND MATERIALS.—

4 (1) IN GENERAL.—

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

13 (B) INVENTORY MANAGEMENT METHOD.—

14 In this subsection, the term “inventory manage-
 15 ment method” means—

- 16 (i) averaging;
- 17 (ii) “last-in, first-out”;
- 18 (iii) “first-in, first-out”; or
- 19 (iv) any other method—

20 (I) recognized in the generally
 21 accepted accounting principles of the
 22 country in which the production is
 23 performed (whether Panama or the
 24 United States); or

1 (II) otherwise accepted by that
2 country.

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

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

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

14 (A) be treated as originating goods if the
15 good is an originating good; and

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

21 (2) CONDITIONS.—Paragraph (1) shall apply
22 only if—

23 (A) the accessories, spare parts, or tools
24 are classified with and not invoiced separately
25 from the good, regardless of whether such ac-

1 cessories, spare parts, or tools are specified or
2 are separately identified in the invoice for the
3 good; and

4 (B) the quantities and value of the acces-
5 sories, spare parts, or tools are customary for
6 the good.

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

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

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

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

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

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

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

22 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
 23 SETS.—Notwithstanding the rules set forth in Annex 4.1
 24 of the Agreement, goods classifiable as goods put up in
 25 sets for retail sale as provided for in General Rule of Inter-

pretation 3 of the HTS shall not be considered to be originating goods unless—

(1) each of the goods in the set is an originating good; or

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

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

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

(n) DEFINITIONS.—In this section:

(1) ADJUSTED VALUE.—The term “adjusted value” means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

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

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

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

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

17 (D) Motor vehicles provided for in any of
18 subheadings 8703.21 through 8703.90.

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

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

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

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

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

20 (A) Plants and plant products harvested or
21 gathered in the territory of Panama, the United
22 States, or both.

23 (B) Live animals born and raised in the
24 territory of Panama, the United States, or
25 both.

1 (C) Goods obtained in the territory of Pan-
2 ama, the United States, or both from live ani-
3 mals.

4 (D) Goods obtained from hunting, trap-
5 ping, fishing, or aquaculture conducted in the
6 territory of Panama, the United States, or
7 both.

8 (E) Minerals and other natural resources
9 not included in subparagraphs (A) through (D)
10 that are extracted or taken from the territory
11 of Panama, the United States, or both.

12 (F) Fish, shellfish, and other marine life
13 taken from the sea, seabed, or subsoil outside
14 the territory of Panama or the United States
15 by—

16 (i) a vessel that is registered or re-
17 corded with Panama and flying the flag of
18 Panama; or

19 (ii) a vessel that is documented under
20 the laws of the United States.

21 (G) Goods produced on board a factory
22 ship from goods referred to in subparagraph
23 (F), if such factory ship—

24 (i) is registered or recorded with Pan-
25 ama and flies the flag of Panama; or

1 (ii) is a vessel that is documented
2 under the laws of the United States.

3 (H)(i) Goods taken by Panama or a person
4 of Panama from the seabed or subsoil outside
5 the territorial waters of Panama, if Panama
6 has rights to exploit such seabed or subsoil.

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

12 (I) Goods taken from outer space, if the
13 goods are obtained by Panama or the United
14 States or a person of Panama or the United
15 States and not processed in the territory of a
16 country other than Panama or the United
17 States.

18 (J) Waste and scrap derived from—

19 (i) manufacturing or processing oper-
20 ations in the territory of Panama, the
21 United States, or both; or

22 (ii) used goods collected in the terri-
23 tory of Panama, the United States, or
24 both, if such goods are fit only for the re-
25 covery of raw materials.

1 (K) Recovered goods derived in the terri-
2 tory of Panama, the United States, or both
3 from used goods, and used in the territory of
4 Panama, the United States, or both, in the pro-
5 duction of remanufactured goods.

6 (L) Goods, at any stage of production, pro-
7 duced in the territory of Panama, the United
8 States, or both, exclusively from—

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

11 (ii) the derivatives of goods referred
12 to in clause (i).

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

17 (7) INDIRECT MATERIAL.—The term “indirect
18 material” means a good used in the production, test-
19 ing, or inspection of another good but not physically
20 incorporated into that other good, or a good used in
21 the maintenance of buildings or the operation of
22 equipment associated with the production of another
23 good, including—

24 (A) fuel and energy;

25 (B) tools, dies, and molds;

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

3 (D) lubricants, greases, compounding ma-
4 terials, and other materials used in production
5 or used to operate equipment or buildings;

6 (E) gloves, glasses, footwear, clothing,
7 safety equipment, and supplies;

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

10 (G) catalysts and solvents; and

11 (H) any other good that is not incor-
12 porated into the other good but the use of
13 which in the production of the other good can
14 reasonably be demonstrated to be a part of that
15 production.

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

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

23 (10) MODEL LINE OF MOTOR VEHICLES.—The
24 term “model line of motor vehicles” means a group

1 of motor vehicles having the same platform or model
2 name.

3 (11) NET COST.—The term “net cost” means
4 total cost minus sales promotion, marketing, and
5 after-sales service costs, royalties, shipping and
6 packing costs, and nonallowable interest costs that
7 are included in the total cost.

8 (12) NONALLOWABLE INTEREST COSTS.—The
9 term “nonallowable interest costs” means interest
10 costs incurred by a producer that exceed 700 basis
11 points above the applicable official interest rate for
12 comparable maturities of the country in which the
13 producer is located.

14 (13) NONORIGINATING GOOD OR NONORIGI-
15 NATING MATERIAL.—The term “nonoriginating
16 good” or “nonoriginating material” means a good or
17 material, as the case may be, that does not qualify
18 as originating under this section.

19 (14) PACKING MATERIALS AND CONTAINERS
20 FOR SHIPMENT.—The term “packing materials and
21 containers for shipment” means goods used to pro-
22 tect another good during its transportation and does
23 not include the packaging materials and containers
24 in which the other good is packaged for retail sale.

1 (15) PREFERENTIAL TARIFF TREATMENT.—

2 The term “preferential tariff treatment” means the
3 customs duty rate, and the treatment under article
4 3.10.4 of the Agreement, that are applicable to an
5 originating good pursuant to the Agreement.

6 (16) PRODUCER.—The term “producer” means
7 a person who engages in the production of a good
8 in the territory of Panama or the United States.

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

13 (18) REASONABLY ALLOCATE.—The term “rea-
14 sonably allocate” means to apportion in a manner
15 that would be appropriate under generally accepted
16 accounting principles.

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

20 (A) the disassembly of used goods into in-
21 dividual parts; and

22 (B) the cleaning, inspecting, testing, or
23 other processing that is necessary for improve-
24 ment to sound working condition of such indi-
25 vidual parts.

1 (20) REMANUFACTURED GOOD.—The term “re-
2 manufactured good” means a good that is classified
3 under chapter 84, 85, 87, or 90, or heading 9402,
4 other than a good classified under heading 8418 or
5 8516, and that—

6 (A) is entirely or partially comprised of re-
7 covered goods; and

8 (B) has a similar life expectancy and en-
9 joys a factory warranty similar to such a good
10 that is new.

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

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

17 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

20 (A) the provisions set forth in Annex 4.1
21 of the Agreement; and

22 (B) any additional subordinate category
23 that is necessary to carry out this title con-
24 sistent with the Agreement.

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

8 (3) MODIFICATIONS.—

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

16 (B) ADDITIONAL PROCLAMATIONS.—Not-
17 withstanding subparagraph (A), and subject to
18 the consultation and layover provisions of sec-
19 tion 104, the President may proclaim before the
20 end of the 1-year period beginning on the date
21 on which the Agreement enters into force,
22 modifications to correct any typographical, cler-
23 ical, or other nonsubstantive technical error re-
24 garding the provisions of chapters 50 through

1 63 (as included in Annex 4.1 of the Agree-
2 ment).

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

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

11 (B) DEFINITIONS.—In this paragraph:

12 (i) INTERESTED ENTITY.—The term
13 “interested entity” means the Government
14 of Panama, a potential or actual purchaser
15 of a textile or apparel good, or a potential
16 or actual supplier of a textile or apparel
17 good.

18 (ii) DAY; DAYS.—All references to
19 “day” and “days” exclude Saturdays, Sun-
20 days, and legal holidays observed by the
21 Government of the United States.

22 (C) REQUESTS TO ADD FABRICS, YARNS,
23 OR FIBERS.—

24 (i) IN GENERAL.—An interested entity
25 may request the President to determine

1 that a fabric, yarn, or fiber is not available
2 in commercial quantities in a timely man-
3 ner in Panama and the United States and
4 to add that fabric, yarn, or fiber to the list
5 in Annex 3.25 of the Agreement in a re-
6 stricted or unrestricted quantity.

7 (ii) DETERMINATIONS.—After receiv-
8 ing a request under clause (i), the Presi-
9 dent may determine whether—

10 (I) the fabric, yarn, or fiber is
11 available in commercial quantities in a
12 timely manner in Panama or the
13 United States; or

14 (II) any interested entity objects
15 to the request.

16 (iii) PROCLAMATION AUTHORITY.—
17 The President may, within the time peri-
18 ods specified in clause (iv), proclaim that
19 the fabric, yarn, or fiber that is the subject
20 of the request is added to the list in Annex
21 3.25 of the Agreement in an unrestricted
22 quantity, or in any restricted quantity that
23 the President may establish, if the Presi-
24 dent has determined under clause (ii)
25 that—

1 (I) the fabric, yarn, or fiber is
2 not available in commercial quantities
3 in a timely manner in Panama and
4 the United States; or

5 (II) no interested entity has ob-
6 jected to the request.

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

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

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

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

1 (vi) ELIMINATION OF RESTRICTION.—

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

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

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

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

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

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

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

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

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

(iii) PROCLAMATION AUTHORITY.—
Not later than 30 days after the date on
which a request under clause (i) is sub-

mitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in Panama or the United States.

(iv) EFFECTIVE DATE.—A proclamation issued under clause (iii) may not take effect earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

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

(i) governing the submission of a request under subparagraphs (C) and (E); and

(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

1 **SEC. 204. CUSTOMS USER FEES.**

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

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

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

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

18 (1) in subsection (c)—

19 (A) by redesignating paragraph (13) as
20 paragraph (14); and

21 (B) by inserting after paragraph (12) the
22 following new paragraph:

23 “(13) PRIOR DISCLOSURE REGARDING CLAIMS
24 UNDER THE UNITED STATES–PANAMA TRADE PRO-
25 MOTION AGREEMENT.—An importer shall not be
26 subject to penalties under subsection (a) for making

1 an incorrect claim that a good qualifies as an origi-
2 nating good under section 203 of the United States–
3 Panama Trade Promotion Agreement Implementa-
4 tion Act if the importer, in accordance with regula-
5 tions issued by the Secretary of the Treasury,
6 promptly and voluntarily makes a corrected declara-
7 tion and pays any duties owing with respect to that
8 good.”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(1) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
12 UNITED STATES–PANAMA TRADE PROMOTION AGREE-
13 MENT.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 it is unlawful for any person to certify falsely, by
16 fraud, gross negligence, or negligence, in a Panama
17 TPA certification of origin (as defined in section
18 508 of this Act) that a good exported from the
19 United States qualifies as an originating good under
20 the rules of origin provided for in section 203 of the
21 United States–Panama Trade Promotion Agreement
22 Implementation Act. The procedures and penalties
23 of this section that apply to a violation of subsection
24 (a) also apply to a violation of this subsection.

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

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

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

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

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

24 “(1) DENIAL OF PREFERENTIAL TARIFF TREATMENT
25 UNDER THE UNITED STATES–PANAMA TRADE PRO-

1 MOTION AGREEMENT.—If U.S. Customs and Border Pro-
2 tection or U.S. Immigration and Customs Enforcement of
3 the Department of Homeland Security finds indications
4 of a pattern of conduct by an importer, exporter, or pro-
5 ducer of false or unsupported representations that goods
6 qualify under the rules of origin provided for in section
7 203 of the United States–Panama Trade Promotion
8 Agreement Implementation Act, U.S. Customs and Border
9 Protection, in accordance with regulations issued by the
10 Secretary of the Treasury, may suspend preferential tariff
11 treatment under the United States–Panama Trade Pro-
12 motion Agreement to entries of identical goods covered by
13 subsequent representations by that importer, exporter, or
14 producer until U.S. Customs and Border Protection deter-
15 mines that representations of that person are in con-
16 formity with such section 203.”.

17 **SEC. 206. RELIQUIDATION OF ENTRIES.**

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

21 (1) by striking “or”; and

22 (2) by striking “for which” and inserting “, or
23 section 203 of the United States–Panama Trade
24 Promotion Agreement Implementation Act for
25 which”.

1 **SEC. 207. RECORDKEEPING REQUIREMENTS.**

2 Section 508 of the Tariff Act of 1930 (19 U.S.C.
3 1508) is amended—

4 (1) by redesignating subsection (k) as sub-
5 section (l);

6 (2) by inserting after subsection (j) the fol-
7 lowing new subsection:

8 “(k) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
9 PORTED UNDER THE UNITED STATES–PANAMA TRADE
10 PROMOTION AGREEMENT.—

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

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

18 “(i) the purchase, cost, and value of,
19 and payment for, the good;

20 “(ii) the purchase, cost, and value of,
21 and payment for, all materials, including
22 indirect materials, used in the production
23 of the good; and

24 “(iii) the production of the good in
25 the form in which it was exported.

1 “(B) PANAMA TPA CERTIFICATION OF ORI-
2 GIN.—The term ‘Panama TPA certification of
3 origin’ means the certification established under
4 article 4.15 of the United States–Panama
5 Trade Promotion Agreement that a good quali-
6 fies as an originating good under such Agree-
7 ment.

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

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

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

1 **SEC. 208. ENFORCEMENT RELATING TO TRADE IN TEXTILE**
2 **OR APPAREL GOODS.**

3 (a) ACTION DURING VERIFICATION.—

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

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

15 (A) an enterprise in Panama is complying
16 with applicable customs laws, regulations, and
17 procedures regarding trade in textile or apparel
18 goods, or

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

21 (i) qualifies as an originating good
22 under section 203, or

23 (ii) is a good of Panama,
24 is accurate.

25 (b) APPROPRIATE ACTION DESCRIBED.—Appropriate
26 action under subsection (a)(1) includes—

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

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

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

18 (2) denial of preferential tariff treatment under
19 the Agreement with respect to—

20 (A) any textile or apparel good exported or
21 produced by the person that is the subject of a
22 verification under subsection (a)(1) regarding
23 compliance described in subsection (a)(2)(A), if
24 the Secretary determines that the person has
25 provided incorrect information to support any

1 claim for preferential tariff treatment that has
2 been made with respect to any such good; or

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

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

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

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

2 On completion of a verification under subsection (a), the
3 President may direct the Secretary of the Treasury to take
4 appropriate action described in subsection (d) until such
5 time as the Secretary receives information sufficient to
6 make the determination under subsection (a)(2) or until
7 such earlier date as the President may direct.

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

10 (1) denial of preferential tariff treatment under
11 the Agreement with respect to—

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

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

1 subsection (a)(2)(B), if the Secretary deter-
2 mines that there is insufficient information to
3 support, or that a person has provided incorrect
4 information to support, that claim; and

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

14 (e) PUBLICATION OF NAME OF PERSON.—In accord-
15 ance with article 3.21.9 of the Agreement, the Secretary
16 of the Treasury may publish the name of any person that
17 the Secretary has determined—

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

21 (2) has failed to demonstrate that it produces,
22 or is capable of producing, the textile or apparel
23 goods that are the subject of a verification under
24 subsection (a)(1).

1 **SEC. 209. REGULATIONS.**

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

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

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

6 (3) any proclamation issued under section
7 203(o).

8 **TITLE III—RELIEF FROM**
9 **IMPORTS**

10 **SEC. 301. DEFINITIONS.**

11 In this title:

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

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

19 **Subtitle A—Relief From Imports**
20 **Benefitting From the Agreement**

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

22 (a) **FILING OF PETITION.**—A petition requesting ac-
23 tion under this subtitle for the purpose of adjusting to
24 the obligations of the United States under the Agreement
25 may be filed with the Commission by an entity, including
26 a trade association, firm, certified or recognized union, or

1 group of workers, that is representative of an industry.
2 The Commission shall transmit a copy of any petition filed
3 under this subsection to the United States Trade Rep-
4 resentative.

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

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

- 21 (1) Paragraphs (1)(B) and (3) of subsection
22 (b).
23 (2) Subsection (c).
24 (3) Subsection (i).

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

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

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

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

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

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

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

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

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

23 (d) REPORT TO PRESIDENT.—Not later than the
24 date that is 30 days after the date on which a determina-
25 tion is made under subsection (a) with respect to an inves-

1 tigation, the Commission shall submit to the President a
2 report that includes—

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

6 (2) if the determination under subsection (a) is
7 affirmative, any findings and recommendations for
8 import relief made under subsection (c) and an ex-
9 planation of the basis for each recommendation; and
10 (3) any dissenting or separate views by mem-
11 bers of the Commission regarding the determination
12 referred to in paragraph (1) and any finding or rec-
13 ommendation referred to in paragraph (2).

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

20 **SEC. 313. PROVISION OF RELIEF.**

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

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

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

14 (c) NATURE OF RELIEF.—

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

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

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

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

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

8 (2) PROGRESSIVE LIBERALIZATION.—If the pe-
9 riod for which import relief is provided under this
10 section is greater than 1 year, the President shall
11 provide for the progressive liberalization (described
12 in article 8.2.3 of the Agreement) of such relief at
13 regular intervals during the period of its application.

14 (d) PERIOD OF RELIEF.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 any import relief that the President provides under
17 this section may not, in the aggregate, be in effect
18 for more than 4 years.

19 (2) EXTENSION.—

20 (A) IN GENERAL.—If the initial period for
21 any import relief provided under this section is
22 less than 4 years, the President, after receiving
23 a determination from the Commission under
24 subparagraph (B) that is affirmative, or which
25 the President considers to be affirmative under

1 paragraph (1) of section 330(d) of the Tariff
2 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-
3 tend the effective period of any import relief
4 provided under this section, subject to the limi-
5 tation under paragraph (1), if the President de-
6 termines that—

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

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

14 (B) ACTION BY COMMISSION.—

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

1 that the industry is making a positive ad-
2 justment to import competition.

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

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

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 3.3 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 3.3 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 3.3 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 3.3 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–Panama Trade
3 Promotion 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 Panamanian textile or
3 apparel article is being imported into the United
4 States in such increased quantities, in absolute
5 terms or relative to the domestic market for that ar-
6 ticle, and under such conditions as to cause serious
7 damage, or actual threat thereof, to a domestic in-
8 dustry producing an article that is like, or directly
9 competitive 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 invest-
18 ment, no one of which is necessarily decisive;
19 and

20 (B) shall not consider changes in consumer
21 preference or changes in technology as factors
22 supporting a determination of serious damage
23 or actual threat thereof.

24 (3) DEADLINE FOR DETERMINATION.—The
25 President shall make the determination under para-

graph (1) not later than 30 days after the completion of any consultations held pursuant to article 3.24.4 of the Agreement.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

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

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

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

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

6 (b) EXTENSION.—If the initial period for any import
7 relief provided under section 322 is less than 3 years, the
8 President may extend the effective period of any import
9 relief provided under that section, subject to the limitation
10 set forth in subsection (a), if the President determines
11 that—

12 (1) the import relief continues to be necessary
13 to remedy or prevent serious damage and to facili-
14 tate adjustment by the domestic industry to import
15 competition; and

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

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

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

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

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

25 (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 PANAMANIAN ARTI-**
9 **CLES.**

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

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

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

3 **TITLE IV—MISCELLANEOUS**

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 (viii);

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

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

12 “(x) a party to the United States—
 13 Panama Trade Promotion Agreement, a
 14 product or service of that country or in-
 15 strumentality which is covered under that
 16 agreement for procurement by the United
 17 States.”.

18 **SEC. 402. MODIFICATION TO THE CARIBBEAN BASIN ECO-** 19 **NOMIC RECOVERY ACT.**

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

24 (b) EFFECTIVE DATE.—The amendment made by
 25 subsection (a) takes effect on the date on which the Presi-

1 dent terminates the designation of Panama as a bene-
 2 ficiary country pursuant to section 201(a)(3) of this Act.

3 **TITLE V—OFFSETS**

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

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

8 “(D) Notwithstanding subparagraph (B)(i), fees may
 9 be charged under paragraphs (1) through (8) of sub-
 10 section (a) during the period beginning on September 1,
 11 2021, and ending on September 30, 2021.”.

12 **SEC. 502. TIME FOR PAYMENT OF CORPORATE ESTIMATED** 13 **TAXES.**

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

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

24 (2) the amount of any required installment of
 25 corporate estimated tax which is otherwise due in

1 July, August, or September of 2016 shall be in-
2 creased by 0.25 percent of such amount (determined
3 without regard to any increase in such amount not
4 contained in such Code); and

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

Union Calendar No. 157

112TH CONGRESS
1ST Session

H. R. 3079

[Report No. 112-238]

A BILL

To implement the United States–Panama Trade
Promotion Agreement.

OCTOBER 6, 2011

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed