

# Union Calendar No. 266

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

# H. R. 3688

[Report No. 110-421]

To implement the United States-Peru Trade Promotion Agreement.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2007

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

NOVEMBER 5, 2007

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

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## A BILL

To implement the United States-Peru Trade Promotion Agreement.

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

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

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

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

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

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

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

TITLE II—CUSTOMS PROVISIONS

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

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

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

Subtitle B—Textile and Apparel Safeguard Measures

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

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

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

## TITLE IV—PROCUREMENT

Sec. 401. Eligible products.

## TITLE V—TRADE IN TIMBER PRODUCTS OF PERU

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

Sec. 502. Report to Congress.

## TITLE VI—OFFSETS

Sec. 601. Customs user fees.

Sec. 602. Time for payment of corporate estimated taxes.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

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

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

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

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) AGREEMENT.—The term “Agreement”  
4 means the United States-Peru Trade Promotion  
5 Agreement approved by Congress under section  
6 101(a)(1).

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

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

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

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

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

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

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

3 (1) the United States-Peru Trade Promotion  
4 Agreement entered into on April 12, 2006, with the  
5 Government of Peru, as amended on June 24 and  
6 June 25, 2007, respectively, by the United States  
7 and Peru, and submitted to Congress on September  
8 27, 2007; and

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

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

21 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**  
22 **STATES AND STATE LAW.**

23 (a) RELATIONSHIP OF AGREEMENT TO UNITED  
24 STATES LAW.—

1           (1) UNITED STATES LAW TO PREVAIL IN CON-  
2 FLICT.—No provision of the Agreement, nor the ap-  
3 plication of any such provision to any person or cir-  
4 cumstance, which is inconsistent with any law of the  
5 United States shall have effect.

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

8                 (A) to amend or modify any law of the  
9 United States, or

10                (B) to limit any authority conferred under  
11 any law of the United States,  
12 unless specifically provided for in this Act.

13           (b) RELATIONSHIP OF AGREEMENT TO STATE  
14 LAW.—

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

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

24                 (A) any law of a political subdivision of a  
25 State; and

1 (B) any State law regulating or taxing the  
2 business of insurance.

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

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

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

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

18 (a) IMPLEMENTING ACTIONS.—

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

21 (A) the President may proclaim such ac-  
22 tions, and

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

1 as may be necessary to ensure that any provision of  
2 this Act, or amendment made by this Act, that takes  
3 effect on the date on which the Agreement enters  
4 into force is appropriately implemented on such  
5 date, but no such proclamation or regulation may  
6 have an effective date earlier than the date on which  
7 the Agreement enters into force.

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

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

22 (b) INITIAL REGULATIONS.—Initial regulations nec-  
23 essary or appropriate to carry out the actions required by  
24 or authorized under this Act or proposed in the statement  
25 of administrative action submitted under section



1 101(a)(2) to implement the Agreement shall, to the max-  
2 imum extent feasible, be issued within 1 year after the  
3 date on which the Agreement enters into force. In the case  
4 of any implementing action that takes effect on a date  
5 after the date on which the Agreement enters into force,  
6 initial regulations to carry out that action shall, to the  
7 maximum extent feasible, be issued within 1 year after  
8 such effective date.

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

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

16 (1) the President has obtained advice regarding  
17 the proposed action from—

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

21 (B) the Commission;

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

1 (A) the action proposed to be proclaimed  
2 and the reasons therefor; and

3 (B) the advice obtained under paragraph  
4 (1);

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

9 (4) the President has consulted with the com-  
10 mittees referred to in paragraph (2) regarding the  
11 proposed action during the period referred to in  
12 paragraph (3).

13 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**  
14 **CEEDINGS.**

15 (a) **ESTABLISHMENT OR DESIGNATION OF OFFICE.—**

16 The President is authorized to establish or designate with-  
17 in the Department of Commerce an office that shall be  
18 responsible for providing administrative assistance to pan-  
19 els established under chapter 21 of the Agreement. The  
20 office shall not be considered to be an agency for purposes  
21 of section 552 of title 5, United States Code.

22 (b) **AUTHORIZATION OF APPROPRIATIONS.—**There  
23 are authorized to be appropriated for each fiscal year after  
24 fiscal year 2007 to the Department of Commerce such  
25 sums as may be necessary for the establishment and oper-

1 ations of the office established or designated under sub-  
2 section (a) and for the payment of the United States share  
3 of the expenses of panels established under chapter 21 of  
4 the Agreement.

5 **SEC. 106. ARBITRATION OF CLAIMS.**

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

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

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

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

19 (c) **TERMINATION OF THE AGREEMENT.**—On the  
20 date on which the Agreement terminates, this Act (other  
21 than this subsection) and the amendments made by this  
22 Act shall cease to have effect.

1 **TITLE II—CUSTOMS PROVISIONS**

2 **SEC. 201. TARIFF MODIFICATIONS.**

3 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE  
4 AGREEMENT.—

5 (1) PROCLAMATION AUTHORITY.—The Presi-  
6 dent may proclaim—

7 (A) such modifications or continuation of  
8 any duty,

9 (B) such continuation of duty-free or ex-  
10 cise treatment, or

11 (C) such additional duties,

12 as the President determines to be necessary or ap-  
13 propriate to carry out or apply articles 2.3, 2.5, 2.6,  
14 3.3.13, and Annex 2.3 of the Agreement.

15 (2) EFFECT ON GSP STATUS.—Notwithstanding  
16 section 502(a)(1) of the Trade Act of 1974 (19  
17 U.S.C. 2462(a)(1)), the President shall, on the date  
18 on which the Agreement enters into force, terminate  
19 the designation of Peru as a beneficiary developing  
20 country for purposes of title V of the Trade Act of  
21 1974 (19 U.S.C. 2461 et seq.).

22 (b) OTHER TARIFF MODIFICATIONS.—Subject to the  
23 consultation and layover provisions of section 104, the  
24 President may proclaim—

1           (1) such modifications or continuation of any  
2           duty,

3           (2) such modifications as the United States  
4           may agree to with Peru regarding the staging of any  
5           duty treatment set forth in Annex 2.3 of the Agree-  
6           ment,

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

9           (4) such additional duties,

10          as the President determines to be necessary or appropriate  
11          to maintain the general level of reciprocal and mutually  
12          advantageous concessions with respect to Peru provided  
13          for by the Agreement.

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

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

1 the orderly marketing of commodities in the United  
2 States.

3 **SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICUL-**  
4 **TURAL GOODS.**

5 (a) DEFINITIONS.—In this section:

6 (1) APPLICABLE NTR (MFN) RATE OF DUTY.—  
7 The term “applicable NTR (MFN) rate of duty”  
8 means, with respect to a safeguard good, a rate of  
9 duty equal to the lowest of—

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

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

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

22 (2) SCHEDULE RATE OF DUTY.—The term  
23 “schedule rate of duty” means, with respect to a  
24 safeguard good, the rate of duty for that good that

1 is set forth in the Schedule of the United States to  
2 Annex 2.3 of the Agreement.

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

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

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

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

16 (b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

17 (1) IN GENERAL.—In addition to any duty pro-  
18 claimed under subsection (a) or (b) of section 201,  
19 the Secretary of the Treasury shall assess a duty, in  
20 the amount determined under paragraph (2), on a  
21 safeguard good imported into the United States in  
22 a calendar year if the Secretary determines that,  
23 prior to such importation, the total volume of that  
24 safeguard good that is imported into the United  
25 States in that calendar year exceeds 130 percent of

1 the volume that is provided for that safeguard good  
2 in the corresponding year in the applicable table  
3 contained in Appendix I of the General Notes to the  
4 Schedule of the United States to Annex 2.3 of the  
5 Agreement. For purposes of this subsection, year 1  
6 in that table corresponds to the calendar year in  
7 which the Agreement enters into force.

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

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

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

19 (3) NOTICE.—Not later than 60 days after the  
20 Secretary of the Treasury first assesses an addi-  
21 tional duty in a calendar year on a good under this  
22 subsection, the Secretary shall notify the Govern-  
23 ment of Peru in writing of such action and shall pro-  
24 vide to that Government data supporting the assess-  
25 ment of the additional duty.



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

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

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

7 (d) TERMINATION.—The assessment of an additional  
8 duty on a good under subsection (b) shall cease to apply  
9 to that good on the date on which duty-free treatment  
10 must be provided to that good under the Schedule of the  
11 United States to Annex 2.3 of the Agreement.

12 **SEC. 203. RULES OF ORIGIN.**

13 (a) APPLICATION AND INTERPRETATION.—In this  
14 section:

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

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

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

1 country in which the good is produced (whether  
2 Peru or the United States).

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

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

11 (2) the good—

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

14 (i) each of the nonoriginating mate-  
15 rials used in the production of the good  
16 undergoes an applicable change in tariff  
17 classification specified in Annex 3–A or  
18 Annex 4.1 of the Agreement; or

19 (ii) the good otherwise satisfies any  
20 applicable regional value-content or other  
21 requirements specified in Annex 3–A or  
22 Annex 4.1 of the Agreement; and

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

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

4           (c) REGIONAL VALUE-CONTENT.—

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

13          (2) BUILD-DOWN 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-down method:

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

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

7 (3) BUILD-UP METHOD.—

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

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

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

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

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

17 (iii) VOM.—The term “VOM” means  
 18 the value of originating materials that are  
 19 acquired or self-produced, and used by the  
 20 producer in the production of the good.

21 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE  
 22 GOODS.—

1 (A) IN GENERAL.—For purposes of sub-  
 2 section (b)(2), the regional value-content of an  
 3 automotive good referred to in Annex 4.1 of the  
 4 Agreement shall be calculated by the importer,  
 5 exporter, or producer of the good, on the basis  
 6 of the following net cost method:

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

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

8 (i) AUTOMOTIVE GOOD.—The term  
 9 “automotive good” means a good provided  
 10 for in any of subheadings 8407.31 through  
 11 8407.34, subheading 8408.20, heading  
 12 8409, or any of headings 8701 through  
 13 8708.

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

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

19 (iv) VNM.—The term “VNM” means  
 20 the value of nonoriginating materials that  
 21 are acquired and used by the producer in  
 22 the production of the automotive good, but  
 23 does not include the value of a material  
 24 that is self-produced.

1 (C) MOTOR VEHICLES.—

2 (i) BASIS OF CALCULATION.—For  
3 purposes of determining the regional value-  
4 content under subparagraph (A) for an  
5 automotive good that is a motor vehicle  
6 provided for in any of headings 8701  
7 through 8705, an importer, exporter, or  
8 producer may average the amounts cal-  
9 culated under the formula contained in  
10 subparagraph (A), over the producer's fis-  
11 cal year—

12 (I) with respect to all motor vehi-  
13 cles in any one of the categories de-  
14 scribed in clause (ii); or

15 (II) with respect to all motor ve-  
16 hicles in any such category that are  
17 exported to the territory of the United  
18 States or Peru.

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

21 (I) is the same model line of  
22 motor vehicles, is in the same class of  
23 motor vehicles, and is produced in the  
24 same plant in the territory of Peru or  
25 the United States, as the good de-

1 scribed in clause (i) for which regional  
2 value-content is being calculated;

3 (II) is the same class of motor  
4 vehicles, and is produced in the same  
5 plant in the territory of Peru or the  
6 United States, as the good described  
7 in clause (i) for which regional value-  
8 content is being calculated; or

9 (III) is the same model line of  
10 motor vehicles produced in the terri-  
11 tory of Peru or the United States as  
12 the good described in clause (i) for  
13 which regional value-content is being  
14 calculated.

15 (D) OTHER AUTOMOTIVE GOODS.—For  
16 purposes of determining the regional value-con-  
17 tent under subparagraph (A) for automotive  
18 materials provided for in any of subheadings  
19 8407.31 through 8407.34, in subheading  
20 8408.20, or in heading 8409, 8706, 8707, or  
21 8708, that are produced in the same plant, an  
22 importer, exporter, or producer may—

23 (i) average the amounts calculated  
24 under the formula contained in subpara-  
25 graph (A) over—

1 (I) the fiscal year of the motor  
2 vehicle producer to whom the auto-  
3 motive goods are sold,

4 (II) any quarter or month, or

5 (III) the fiscal year of the pro-  
6 ducer of such goods,

7 if the goods were produced during the fis-  
8 cal year, quarter, or month that is the  
9 basis for the calculation;

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

13 (iii) make a separate determination  
14 under clause (i) or (ii) for such goods that  
15 are exported to the territory of Peru or the  
16 United States.

17 (E) CALCULATING NET COST.—The im-  
18 porter, exporter, or producer of an automotive  
19 good shall, consistent with the provisions re-  
20 garding allocation of costs provided for in gen-  
21 erally accepted accounting principles, determine  
22 the net cost of the automotive good under sub-  
23 paragraph (B) by—

24 (i) calculating the total cost incurred  
25 with respect to all goods produced by the



1 producer of the automotive good, sub-  
2 tracting any sales promotion, marketing,  
3 and after-sales service costs, royalties,  
4 shipping and packing costs, and nonallow-  
5 able interest costs that are included in the  
6 total cost of all such goods, and then rea-  
7 sonably allocating the resulting net cost of  
8 those goods to the automotive good;

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

19 (iii) reasonably allocating each cost  
20 that forms part of the total cost incurred  
21 with respect to the automotive good so that  
22 the aggregate of these costs does not in-  
23 clude any sales promotion, marketing, and  
24 after-sales service costs, royalties, shipping

1                   and packing costs, or nonallowable interest  
2                   costs.

3           (d) VALUE OF MATERIALS.—

4           (1) IN GENERAL.—For the purpose of calcu-  
5           lating the regional value-content of a good under  
6           subsection (c), and for purposes of applying the de  
7           minimis rules under subsection (f), the value of a  
8           material is—

9                   (A) in the case of a material that is im-  
10                   ported by the producer of the good, the ad-  
11                   justed value of the material;

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

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

3 (i) all expenses incurred in the pro-  
4 duction of the material, including general  
5 expenses; and

6 (ii) an amount for profit equivalent to  
7 the profit added in the normal course of  
8 trade.

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

11 (A) ORIGINATING MATERIAL.—The fol-  
12 lowing expenses, if not included in the value of  
13 an originating material calculated under para-  
14 graph (1), may be added to the value of the  
15 originating material:

16 (i) The costs of freight, insurance,  
17 packing, and all other costs incurred in  
18 transporting the material within or be-  
19 tween the territory of Peru, the United  
20 States, or both, to the location of the pro-  
21 ducer.

22 (ii) Duties, taxes, and customs broker-  
23 age fees on the material paid in the terri-  
24 tory of Peru, the United States, or both,  
25 other than duties or taxes that are waived,

1 refunded, refundable, or otherwise recover-  
2 able, including credit against duty or tax  
3 paid or payable.

4 (iii) The cost of waste and spoilage re-  
5 sulting from the use of the material in the  
6 production of the good, less the value of  
7 renewable scrap or byproducts.

8 (B) NONORIGINATING MATERIAL.—The  
9 following expenses, if included in the value of a  
10 nonoriginating material calculated under para-  
11 graph (1), may be deducted from the value of  
12 the nonoriginating material:

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

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

1 (iii) The cost of waste and spoilage re-  
2 sulting from the use of the material in the  
3 production of the good, less the value of  
4 renewable scrap or byproducts.

5 (iv) The cost of originating materials  
6 used in the production of the nonorigi-  
7 nating material in the territory of Peru,  
8 the United States, or both.

9 (e) ACCUMULATION.—

10 (1) ORIGINATING MATERIALS USED IN PRODUC-  
11 TION OF GOODS OF ANOTHER COUNTRY.—Orig-  
12 inating materials from the territory of Peru or the  
13 United States that are used in the production of a  
14 good in the territory of the other country shall be  
15 considered to originate in the territory of such other  
16 country.

17 (2) MULTIPLE PRODUCERS.—A good that is  
18 produced in the territory of Peru, the United States,  
19 or both, by 1 or more producers, is an originating  
20 good if the good satisfies the requirements of sub-  
21 section (b) and all other applicable requirements of  
22 this section.

23 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-  
24 TERIALS.—

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

5                   (A)(i) the value of all nonoriginating mate-  
6                   rials that—

7                           (I) are used in the production of the  
8                           good, and

9                           (II) do not undergo the applicable  
10                          change in tariff classification (set forth in  
11                          Annex 4.1 of the Agreement),

12                   does not exceed 10 percent of the adjusted  
13                   value of the good;

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

16                   (iii) the value of such nonoriginating mate-  
17                   rials is included in the value of nonoriginating  
18                   materials for any applicable regional value-con-  
19                   tent requirement for the good; or

20                   (B) the good meets the requirements set  
21                   forth in paragraph 2 of Annex 4.6 of the Agree-  
22                   ment.

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

1           (A) A nonoriginating material provided for  
2 in chapter 4, or a nonoriginating dairy prepara-  
3 tion containing over 10 percent by weight of  
4 milk solids provided for in subheading 1901.90  
5 or 2106.90, that is used in the production of a  
6 good provided for in chapter 4.

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

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

16           (ii) Mixes and doughs, containing over  
17 25 percent by weight of butterfat, not put  
18 up for retail sale, provided for in sub-  
19 heading 1901.20.

20           (iii) Dairy preparations containing  
21 over 10 percent by weight of milk solids  
22 provided for in subheading 1901.90 or  
23 2106.90.

24           (iv) Goods provided for in heading  
25 2105.

1 (v) Beverages containing milk pro-  
2 vided for in subheading 2202.90.

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

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

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

19 (E) A nonoriginating material provided for  
20 in chapter 15 that is used in the production of  
21 a good provided for in any of headings 1501  
22 through 1508, or any of headings 1511 through  
23 1515.

24 (F) A nonoriginating material provided for  
25 in heading 1701 that is used in the production



1 of a good provided for in any of headings 1701  
2 through 1703.

3 (G) A nonoriginating material provided for  
4 in chapter 17 that is used in the production of  
5 a good provided for in subheading 1806.10.

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

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

16 (3) TEXTILE OR APPAREL GOODS.—

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

1 (i) the total weight of all such fibers  
2 or yarns in that component is not more  
3 than 10 percent of the total weight of that  
4 component; or

5 (ii) the yarns are those described in  
6 section 204(b)(3)(B)(vi)(IV) of the Andean  
7 Trade Preference Act (19 U.S.C.  
8 3203(b)(3)(B)(vi)(IV)) (as in effect on the  
9 date of the enactment of this Act).

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

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

24 (g) FUNGIBLE GOODS AND MATERIALS.—

25 (1) IN GENERAL.—

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

9 (B) INVENTORY MANAGEMENT METHOD.—  
10 In this subsection, the term “inventory manage-  
11 ment method” means—

- 12 (i) averaging;  
13 (ii) “last-in, first-out”;  
14 (iii) “first-in, first-out”; or  
15 (iv) any other method—

16 (I) recognized in the generally  
17 accepted accounting principles of the  
18 country in which the production is  
19 performed (whether Peru or the  
20 United States); or

21 (II) otherwise accepted by that  
22 country.

23 (2) ELECTION OF INVENTORY METHOD.—A  
24 person selecting an inventory management method  
25 under paragraph (1) for a particular fungible good

1 or fungible material shall continue to use that meth-  
2 od for that fungible good or fungible material  
3 throughout the fiscal year of such person.

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

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

9 (A) be treated as originating goods if the  
10 good is an originating good; and

11 (B) be disregarded in determining whether  
12 all the nonoriginating materials used in the pro-  
13 duction of the good undergo the applicable  
14 change in tariff classification set forth in Annex  
15 4.1 of the Agreement.

16 (2) CONDITIONS.—Paragraph (1) shall apply  
17 only if—

18 (A) the accessories, spare parts, or tools  
19 are classified with and not invoiced separately  
20 from the good, regardless of whether such ac-  
21 cessories, spare parts, or tools are specified or  
22 are separately identified in the invoice for the  
23 good; and

1 (B) the quantities and value of the acces-  
2 sories, spare parts, or tools are customary for  
3 the good.

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

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

22 (j) PACKING MATERIALS AND CONTAINERS FOR  
23 SHIPMENT.—Packing materials and containers for ship-  
24 ment shall be disregarded in determining whether a good  
25 is an originating good.

1 (k) INDIRECT MATERIALS.—An indirect material  
2 shall be treated as an originating material without regard  
3 to where it is produced.

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

9 (1) undergoes further production or any other  
10 operation outside the territory of Peru or the United  
11 States, other than unloading, reloading, or any other  
12 operation necessary to preserve the good in good  
13 condition or to transport the good to the territory of  
14 Peru or the United States; or

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

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

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

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

3           (A) in the case of textile or apparel goods,  
4           10 percent of the adjusted value of the set; or

5           (B) in the case of a good, other than a tex-  
6           tile or apparel good, 15 percent of the adjusted  
7           value of the set.

8           (n) DEFINITIONS.—In this section:

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

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

1 (A) Motor vehicles provided for in sub-  
2 heading 8701.20, 8704.10, 8704.22, 8704.23,  
3 8704.32, or 8704.90, or heading 8705 or 8706,  
4 or motor vehicles for the transport of 16 or  
5 more persons provided for in subheading  
6 8702.10 or 8702.90.

7 (B) Motor vehicles provided for in sub-  
8 heading 8701.10 or any of subheadings  
9 8701.30 through 8701.90.

10 (C) Motor vehicles for the transport of 15  
11 or fewer persons provided for in subheading  
12 8702.10 or 8702.90, or motor vehicles provided  
13 for in subheading 8704.21 or 8704.31.

14 (D) Motor vehicles provided for in any of  
15 subheadings 8703.21 through 8703.90.

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

23 (4) GENERALLY ACCEPTED ACCOUNTING PRIN-  
24 CIPLES.—The term “generally accepted accounting  
25 principles” means the recognized consensus or sub-



1       stantial authoritative support in the territory of  
2       Peru or the United States, as the case may be, with  
3       respect to the recording of revenues, expenses, costs,  
4       assets, and liabilities, the disclosure of information,  
5       and the preparation of financial statements. The  
6       principles may encompass broad guidelines of gen-  
7       eral application as well as detailed standards, prac-  
8       tices, and procedures.

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

15               (A) Plants and plant products harvested or  
16       gathered in the territory of Peru, the United  
17       States, or both.

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

20               (C) Goods obtained in the territory of  
21       Peru, the United States, or both from live ani-  
22       mals.

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

1           (E) Minerals and other natural resources  
2 not included in subparagraphs (A) through (D)  
3 that are extracted or taken from the territory  
4 of Peru, the United States, or both.

5           (F) Fish, shellfish, and other marine life  
6 taken from the sea, seabed, or subsoil outside  
7 the territory of Peru or the United States by—

8                 (i) a vessel that is registered or re-  
9 corded with Peru and flying the flag of  
10 Peru; or

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

13           (G) Goods produced on board a factory  
14 ship from goods referred to in subparagraph  
15 (F), if such factory ship—

16                 (i) is registered or recorded with Peru  
17 and flies the flag of Peru; or

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

20           (H)(i) Goods taken by Peru or a person of  
21 Peru from the seabed or subsoil outside the ter-  
22 ritorial waters of Peru, if Peru has rights to ex-  
23 ploit such seabed or subsoil.

24                (ii) Goods taken by the United States or a  
25 person of the United States from the seabed or

1 subsoil outside the territorial waters of the  
2 United States, if the United States has rights  
3 to exploit such seabed or subsoil.

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

9 (J) Waste and scrap derived from—

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

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

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

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

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

3 (ii) the derivatives of goods referred  
4 to in clause (i).

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

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

16 (A) fuel and energy;

17 (B) tools, dies, and molds;

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

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

23 (E) gloves, glasses, footwear, clothing,  
24 safety equipment, and supplies;

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

3 (G) catalysts and solvents; and

4 (H) any other goods that are not incor-  
5 porated into the other good but the use of  
6 which in the production of the other good can  
7 reasonably be demonstrated to be a part of that  
8 production.

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

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

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

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

1           (12) NONALLOWABLE INTEREST COSTS.—The  
2 term “nonallowable interest costs” means interest  
3 costs incurred by a producer that exceed 700 basis  
4 points above the applicable official interest rate for  
5 comparable maturities of the country in which the  
6 producer is located.

7           (13) NONORIGINATING GOOD OR NONORIGI-  
8 NATING MATERIAL.—The terms “nonoriginating  
9 good” and “nonoriginating material” mean a good  
10 or material, as the case may be, that does not qual-  
11 ify as originating under this section.

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

18           (15) PREFERENTIAL TARIFF TREATMENT.—  
19 The term “preferential tariff treatment” means the  
20 customs duty rate, and the treatment under article  
21 2.10.4 of the Agreement, that are applicable to an  
22 originating good pursuant to the Agreement.

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

1           (17) PRODUCTION.—The term “production”  
2 means growing, mining, harvesting, fishing, raising,  
3 trapping, hunting, manufacturing, processing, as-  
4 sembling, or disassembling a good.

5           (18) REASONABLY ALLOCATE.—The term “rea-  
6 sonably allocate” means to apportion in a manner  
7 that would be appropriate under generally accepted  
8 accounting principles.

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

12                   (A) the disassembly of used goods into in-  
13 dividual parts; and

14                   (B) the cleaning, inspecting, testing, or  
15 other processing that is necessary for improve-  
16 ment to sound working condition of such indi-  
17 vidual parts.

18           (20) REMANUFACTURED GOOD.—The term “re-  
19 manufactured good” means an industrial good as-  
20 sembled in the territory of Peru or the United  
21 States, or both, that is classified under chapter 84,  
22 85, 87, or 90 or heading 9402, other than a good  
23 classified under heading 8418 or 8516, and that—

24                   (A) is entirely or partially comprised of re-  
25 covered goods; and

1 (B) has a similar life expectancy and en-  
2 joys a factory warranty similar to such a good  
3 that is new.

4 (21) TOTAL COST.—

5 (A) IN GENERAL.—The term “total  
6 cost”—

7 (i) means all product costs, period  
8 costs, and other costs for a good incurred  
9 in the territory of Peru, the United States,  
10 or both; and

11 (ii) does not include profits that are  
12 earned by the producer, regardless of  
13 whether they are retained by the producer  
14 or paid out to other persons as dividends,  
15 or taxes paid on those profits, including  
16 capital gains taxes.

17 (B) OTHER DEFINITIONS.—In this para-  
18 graph:

19 (i) PRODUCT COSTS.—The term  
20 “product costs” means costs that are asso-  
21 ciated with the production of a good and  
22 include the value of materials, direct labor  
23 costs, and direct overhead.

24 (ii) PERIOD COSTS.—The term “pe-  
25 riod costs” means costs, other than prod-



1           uct costs, that are expensed in the period  
2           in which they are incurred, such as selling  
3           expenses and general and administrative  
4           expenses.

5           (iii) OTHER COSTS.—The term “other  
6           costs” means all costs recorded on the  
7           books of the producer that are not product  
8           costs or period costs, such as interest.

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

11          (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

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

16           (B) any additional subordinate category  
17          that is necessary to carry out this title con-  
18          sistent with the Agreement.

19           (2) FABRICS AND YARNS NOT AVAILABLE IN  
20          COMMERCIAL QUANTITIES IN THE UNITED  
21          STATES.—The President is authorized to proclaim  
22          that a fabric or yarn is added to the list in Annex  
23          3–B of the Agreement in an unrestricted quantity,  
24          as provided in article 3.3.5(e) of the Agreement.

25           (3) MODIFICATIONS.—

1           (A) IN GENERAL.—Subject to the consulta-  
2           tion and layover provisions of section 104, the  
3           President may proclaim modifications to the  
4           provisions proclaimed under the authority of  
5           paragraph (1)(A), other than provisions of  
6           chapters 50 through 63 (as included in Annex  
7           3–A of the Agreement).

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

18          (4) FABRICS, YARNS, OR FIBERS NOT AVAIL-  
19          ABLE IN COMMERCIAL QUANTITIES IN PERU AND  
20          THE UNITED STATES.—

21               (A) IN GENERAL.—Notwithstanding para-  
22               graph (3)(A), the list of fabrics, yarns, and fi-  
23               bers set forth in Annex 3–B of the Agreement  
24               may be modified as provided for in this para-  
25               graph.

1 (B) DEFINITIONS.—In this paragraph:

2 (i) The term “interested entity”  
3 means the Government of Peru, a potential  
4 or actual purchaser of a textile or apparel  
5 good, or a potential or actual supplier of a  
6 textile or apparel good.

7 (ii) All references to “day” and  
8 “days” exclude Saturdays, Sundays, and  
9 legal holidays observed by the Government  
10 of the United States.

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

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

21 (I) the fabric, yarn, or fiber is avail-  
22 able in commercial quantities in a timely  
23 manner in Peru or the United States; or

24 (II) any interested entity objects to  
25 the request.

1 (iii) The President may, within the time  
2 periods specified in clause (iv), proclaim that  
3 the fabric, yarn, or fiber that is the subject of  
4 the request is added to the list in Annex 3–B  
5 of the Agreement in an unrestricted quantity,  
6 or in any restricted quantity that the President  
7 may establish, if the President has determined  
8 under clause (ii) that—

9 (I) the fabric, yarn, or fiber is not  
10 available in commercial quantities in a  
11 timely manner in Peru and the United  
12 States; or

13 (II) no interested entity has objected  
14 to the request.

15 (iv) The time periods within which the  
16 President may issue a proclamation under  
17 clause (iii) are—

18 (I) not later than 30 days after the  
19 date on which a request is submitted under  
20 clause (i); or

21 (II) not later than 44 days after the  
22 request is submitted, if the President de-  
23 termines, within 30 days after the date on  
24 which the request is submitted, that the  
25 President does not have sufficient informa-

1                   tion to make a determination under clause  
2                   (ii).

3                   (v) Notwithstanding section 103(a)(2), a  
4                   proclamation made under clause (iii) shall take  
5                   effect on the date on which the text of the proe-  
6                   lamation is published in the Federal Register.

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

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

1 (i) 45 days after the date on which  
2 the request was submitted; or

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

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

13 (I) that has been added to that list in  
14 an unrestricted quantity pursuant to para-  
15 graph (2) or subparagraph (C)(iii) or (D)  
16 of this paragraph; or

17 (II) with respect to which the Presi-  
18 dent has eliminated a restriction under  
19 subparagraph (C)(vi).

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

24 (iii) Not later than 30 days after the date  
25 on which a request under clause (i) is sub-

1           mitted, the President may proclaim an action  
2           provided for under clause (i) if the President  
3           determines that the fabric, yarn, or fiber that  
4           is the subject of the request is available in com-  
5           mercial quantities in a timely manner in Peru  
6           or the United States.

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

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

14               (i) governing the submission of a re-  
15               quest under subparagraphs (C) and (E);  
16               and

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

22 **SEC. 204. CUSTOMS USER FEES.**

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

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

8 **SEC. 205. DISCLOSURE OF INCORRECT INFORMATION;**  
9 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**  
10 **OF PREFERENTIAL TARIFF TREATMENT.**

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

14 (1) in subsection (c)—

15 (A) by redesignating paragraph (10) as  
16 paragraph (11); and

17 (B) by inserting after paragraph (9) the  
18 following new paragraph:

19 “(10) PRIOR DISCLOSURE REGARDING CLAIMS  
20 UNDER THE UNITED STATES-PERU TRADE PRO-  
21 MOTION AGREEMENT.—An importer shall not be  
22 subject to penalties under subsection (a) for making  
23 an incorrect claim that a good qualifies as an origi-  
24 nating good under section 203 of the United States-  
25 Peru Trade Promotion Agreement Implementation



1 Act if the importer, in accordance with regulations  
2 issued by the Secretary of the Treasury, promptly  
3 and voluntarily makes a corrected declaration and  
4 pays any duties owing with respect to that good.”;  
5 and

6 (2) by adding at the end the following new sub-  
7 section:

8 “(i) FALSE CERTIFICATIONS OF ORIGIN UNDER THE  
9 UNITED STATES-PERU TRADE PROMOTION AGREE-  
10 MENT.—

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

23 “(2) PROMPT AND VOLUNTARY DISCLOSURE OF  
24 INCORRECT INFORMATION.—No penalty shall be im-  
25 posed under this subsection if, promptly after an ex-

1       porter or producer that issued a PTPA certification  
2       of origin has reason to believe that such certification  
3       contains or is based on incorrect information, the ex-  
4       porter or producer voluntarily provides written no-  
5       tice of such incorrect information to every person to  
6       whom the certification was issued.

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

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

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

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

21              “(i) DENIAL OF PREFERENTIAL TARIFF TREATMENT  
22       UNDER THE UNITED STATES-PERU TRADE PROMOTION  
23       AGREEMENT.—If U.S. Customs and Border Protection or  
24       U.S. Immigration and Customs Enforcement of the De-  
25       partment of Homeland Security finds indications of a pat-

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

14 **SEC. 206. RELIQUIDATION OF ENTRIES.**

15 Subsection (d) of section 520 of the Tariff Act of  
16 1930 (19 U.S.C. 1520(d)) is amended in the matter pre-  
17 ceding paragraph (1)—

18 (1) by striking “or”; and

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

22 **SEC. 207. RECORDKEEPING REQUIREMENTS.**

23 Section 508 of the Tariff Act of 1930 (19 U.S.C.  
24 1508) is amended—

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

3           (2) by inserting after subsection (g) the fol-  
4           lowing new subsection:

5           “(h) CERTIFICATIONS OF ORIGIN FOR GOODS EX-  
6           PORTED UNDER THE UNITED STATES-PERU TRADE PRO-  
7           MOTION AGREEMENT.—

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

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

15                   “(i) the purchase, cost, and value of,  
16                   and payment for, the good;

17                   “(ii) the purchase, cost, and value of,  
18                   and payment for, all materials, including  
19                   indirect materials, used in the production  
20                   of the good; and

21                   “(iii) the production of the good in  
22                   the form in which it was exported.

23           “(B) PTPA CERTIFICATION OF ORIGIN.—  
24           The term ‘PTPA certification of origin’ means  
25           the certification established under article 4.15

1 of the United States-Peru Trade Promotion  
2 Agreement that a good qualifies as an origi-  
3 nating good under such Agreement.

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

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

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

20 (A) by striking “(f) or (g)” and inserting  
21 “(f), (g), or (h)”;

22 (B) by striking “either such subsection”  
23 and inserting “any such subsection”.

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 Peru to con-  
6 duct a verification pursuant to article 3.2 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 exporter or producer in Peru is  
16 complying with applicable customs laws, regula-  
17 tions, and procedures regarding trade in textile  
18 or apparel goods; or

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

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

24 (ii) is a good of Peru,  
25 is accurate.

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

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

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

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

20 (2) denial of preferential tariff treatment under  
21 the Agreement with respect to—

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

1 the Secretary determines that the person has  
2 provided incorrect information to support any  
3 claim for preferential tariff treatment that has  
4 been made with respect to any such good; or

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

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

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



1 the person has provided incorrect information as to  
2 the country of origin of any such good.

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

4 On completion of a verification under subsection (a), the  
5 President may direct the Secretary to take appropriate ac-  
6 tion described in subsection (d) until such time as the Sec-  
7 retary receives information sufficient to make the deter-  
8 mination under subsection (a)(2) or until such earlier date  
9 as the President may direct.

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

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

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

24 (B) the textile or apparel good for which a  
25 claim of preferential tariff treatment has been

1           made that is the subject of a verification under  
2           subsection (a)(1) regarding a claim described in  
3           subsection (a)(2)(B), if the Secretary deter-  
4           mines that there is insufficient information to  
5           support, or that a person has provided incorrect  
6           information to support, that claim; and

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

16          (e) PUBLICATION OF NAME OF PERSON.—In accord-  
17          ance with article 3.2.6 of the Agreement, the Secretary  
18          may publish the name of any person that the Secretary  
19          has determined—

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

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

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) **PERUVIAN ARTICLE.**—The term “Peruvian  
13 article” means an article that qualifies as an origi-  
14 nating good under section 203(b).

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

19 **Subtitle A—Relief From Imports**  
20 **Benefiting 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 Peruvian article is being imported into the  
11 United States in such increased quantities, in absolute  
12 terms or relative to domestic production, and under such  
13 conditions that imports of the Peruvian article constitute  
14 a substantial cause of serious injury or threat thereof to  
15 the domestic industry producing an article that is like, or  
16 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 Peruvian article if, after the date on which  
4 the Agreement enters into force, import relief has been  
5 provided with respect to that Peruvian article under this  
6 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)), 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 the  
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 2.3 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 8.2.2 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 be in effect for more than 2  
18 years.

19 (2) EXTENSION.—

20 (A) IN GENERAL.—Subject to subpara-  
21 graph (C), the President, after receiving a de-  
22 termination from the Commission under sub-  
23 paragraph (B) that is affirmative, or which the  
24 President considers to be affirmative under  
25 paragraph (1) of section 330(d) of the Tariff

1 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-  
2 tend the effective period of any import relief  
3 provided under this section by up to 2 years, if  
4 the President determines that—

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

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

12 (B) ACTION BY COMMISSION.—

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

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

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

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

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

1           (1) the rate of duty on that article after such  
2           termination and on or before December 31 of the  
3           year in which such termination occurs shall be the  
4           rate that, according to the Schedule of the United  
5           States to Annex 2.3 of the Agreement, would have  
6           been in effect 1 year after the provision of relief  
7           under subsection (a); and

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

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

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

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

22                   (1) any article that is subject to import relief  
23                   under—

24                           (A) subtitle B; or

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

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

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

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

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

17 **SEC. 315. COMPENSATION AUTHORITY.**

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

23 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

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

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

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

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

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

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

24 (a) DETERMINATION.—

1           (1) IN GENERAL.—If a positive determination is  
2           made under section 321(b), the President shall de-  
3           termine whether, as a result of the elimination of a  
4           duty under the Agreement, a Peruvian textile or ap-  
5           parel article is being imported into the United States  
6           in such increased quantities, in absolute terms or  
7           relative to the domestic market for that article, and  
8           under such conditions as to cause serious damage,  
9           or actual threat thereof, to a domestic industry pro-  
10          ducing an article that is like, or directly competitive  
11          with, the imported article.

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

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

22                (B) shall not consider changes in consumer  
23                preference or changes in technology in the  
24                United States as factors supporting a deter-

1           mination of serious damage or actual threat  
2           thereof.

3           (b) PROVISION OF RELIEF.—

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

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

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

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



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

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

5 (b) EXTENSION.—

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

11 (A) the import relief continues to be nec-  
12 essary to remedy or prevent serious damage  
13 and to facilitate adjustment by the domestic in-  
14 dustry to import competition; and

15 (B) there is evidence that the industry is  
16 making a positive adjustment to import com-  
17 petition.

18 (2) LIMITATION.—Any relief provided under  
19 this subtitle, including any extensions thereof, may  
20 not, in the aggregate, be in effect for more than 3  
21 years.

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

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

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

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

3                   (A) subtitle A; or

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

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

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

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

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

15 **SEC. 327. 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 this subtitle 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. 328. CONFIDENTIAL BUSINESS INFORMATION.**

22       The President may not release information received  
23 in connection with an investigation or determination under  
24 this subtitle which the President considers to be confiden-  
25 tial business information unless the party submitting the

1 confidential business information had notice, at the time  
2 of submission, that such information would be released by  
3 the President, or such party subsequently consents to the  
4 release of the information. To the extent a party submits  
5 confidential business information, the party shall also pro-  
6 vide a nonconfidential version of the information in which  
7 the confidential business information is summarized or, if  
8 necessary, deleted.

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

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

12 (a) EFFECT OF IMPORTS.—If, in any investigation  
13 initiated under chapter 1 of title II of the Trade Act of  
14 1974 (19 U.S.C. 2251 et seq.), the Commission makes an  
15 affirmative determination (or a determination which the  
16 President may treat as an affirmative determination under  
17 such chapter by reason of section 330(d) of the Tariff Act  
18 of 1930), the Commission shall also find (and report to  
19 the President at the time such injury determination is sub-  
20 mitted to the President) whether imports of the article of  
21 Peru that qualify as originating goods under section  
22 203(b) are a substantial cause of serious injury or threat  
23 thereof.

24 (b) PRESIDENTIAL DETERMINATION REGARDING IM-  
25 PORTS OF PERU.—In determining the nature and extent

1 of action to be taken under chapter 1 of title II of the  
2 Trade Act of 1974 (19 U.S.C. 2251 et seq.), the President  
3 may exclude from the action goods of Peru with respect  
4 to which the Commission has made a negative finding  
5 under subsection (a).

## 6 **TITLE IV—PROCUREMENT**

### 7 **SEC. 401. ELIGIBLE PRODUCTS.**

8 Section 308(4)(A) of the Trade Agreements Act of  
9 1979 (19 U.S.C. 2518(4)(A)) is amended—

- 10 (1) by striking “or” at the end of clause (v);  
11 (2) by striking the period at the end of clause  
12 (vi) and inserting “; or”; and  
13 (3) by adding at the end the following new  
14 clause:

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

1           **TITLE V—TRADE IN TIMBER**  
2                   **PRODUCTS OF PERU**

3   **SEC. 501. ENFORCEMENT RELATING TO TRADE IN TIMBER**  
4                   **PRODUCTS OF PERU.**

5           (a) ESTABLISHMENT OF INTERAGENCY COM-  
6   MITTEE.—Not later than 90 days after the date on which  
7   the Agreement enters into force, the President shall estab-  
8   lish an Interagency Committee (in this section referred to  
9   as the “Committee”). The Committee shall be responsible  
10  for overseeing the implementation of Annex 18.3.4 of the  
11  Agreement, including by undertaking such actions and  
12  making such determinations provided for in this section  
13  that are not otherwise authorized under law.

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

21          (c) VERIFICATION.—

22               (1) IN GENERAL.—The Committee may request  
23   the Government of Peru to conduct a verification,  
24   pursuant to paragraph 7 of Annex 18.3.4 of the  
25   Agreement, for the purpose of determining whether,

1 with respect to a particular shipment of timber prod-  
2 ucts from Peru to the United States, the producer  
3 or exporter of the products has complied with appli-  
4 cable laws, regulations, and other measures of Peru  
5 governing the harvest of, and trade in, the products.

6 (2) ACTIONS OF COMMITTEE.—If the Com-  
7 mittee requests a verification under paragraph (1),  
8 the Committee shall—

9 (A) to the extent authorized under law,  
10 provide the Government of Peru with trade and  
11 transit documents and other information to as-  
12 sist Peru in conducting the verification; and

13 (B) direct U.S. Customs and Border Pro-  
14 tection to take any appropriate action described  
15 in paragraph (4).

16 (3) REQUEST TO PARTICIPATE IN  
17 VERIFICATION VISIT.—The Committee may request  
18 the Government of Peru to permit officials of any  
19 agency represented on the Committee to participate  
20 in any visit conducted by Peru of the premises of a  
21 person that is the subject of the verification re-  
22 quested under paragraph (1) (in this section referred  
23 to as a “verification visit”). Such request shall be  
24 submitted in writing not later than 10 days before  
25 any scheduled verification visit and shall identify the

1 names and titles of the officials intending to partici-  
2 pate.

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

8 (A) detain the shipment that is the subject  
9 of the verification; or

10 (B) if the Committee has requested under  
11 paragraph (3) to have an official of any agency  
12 represented on the Committee participate in the  
13 verification visit and the Government of Peru  
14 has denied the request, deny entry to the ship-  
15 ment that is the subject of the verification.

16 (5) DETERMINATION UPON RECEIPT OF RE-  
17 PORT.—

18 (A) IN GENERAL.—Within a reasonable  
19 time after the Government of Peru provides a  
20 report to the Committee describing the results  
21 of a verification requested under paragraph (1),  
22 the Committee shall determine whether any ac-  
23 tion is appropriate.

24 (B) DETERMINATION OF APPROPRIATE AC-  
25 TION.—In determining the appropriate action

1 to take and the duration of the action, the  
2 Committee shall consider any relevant factors,  
3 including—

4 (i) the verification report issued by  
5 the Government of Peru;

6 (ii) any information that officials of  
7 the United States have obtained regarding  
8 the shipment or person that is the subject  
9 of the verification; and

10 (iii) any information that officials of  
11 the United States have obtained during a  
12 verification visit.

13 (6) NOTIFICATION.—Before directing that ac-  
14 tion be taken under paragraph (7), the Committee  
15 shall notify the Government of Peru in writing of  
16 the action that will be taken and the duration of the  
17 action.

18 (7) APPROPRIATE ACTION.—If the Committee  
19 makes an affirmative determination under para-  
20 graph (5), it may take any action with respect to the  
21 shipment that was the subject of the verification, or  
22 the products of the relevant producer or exporter,  
23 that the Committee considers appropriate, including  
24 directing U.S. Customs and Border Protection to—

25 (A) deny entry to the shipment;



1           (B) if a determination has been made that  
2           a producer or exporter has knowingly provided  
3           false information to officials of Peru or the  
4           United States regarding a shipment, deny entry  
5           to products of that producer or exporter derived  
6           from any tree species listed in Appendices to  
7           the Convention on International Trade in En-  
8           dangered Species of Wild Fauna and Flora,  
9           done at Washington March 3, 1973 (27 UST  
10          1087; TIAS 8249); or

11          (C) take any other action the Committee  
12          determines to be appropriate.

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

16                (A) the end of the period specified in the  
17                written notification pursuant to paragraph (6);  
18                or

19                (B) 15 days after the date on which the  
20                Government of Peru submits to the United  
21                States the results of an audit under paragraph  
22                6 of Annex 18.3.4 of the Agreement that con-  
23                cludes that the person has complied with all ap-  
24                plicable laws, regulations, and other measures

1           of Peru governing the harvest of, and trade in,  
2           timber products.

3           (9) FAILURE TO PROVIDE VERIFICATION RE-  
4           PORT.—If the Committee determines that the Gov-  
5           ernment of Peru has failed to provide a verification  
6           report, as required by paragraph 12 of Annex 18.3.4  
7           of the Agreement, the Committee may take such ac-  
8           tion with respect to the relevant exporter’s timber  
9           products as the Committee considers appropriate, in-  
10          cluding any action described in paragraph (7).

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

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

22          (f) COORDINATION WITH OTHER LAWS.—

23                 (1) ENDANGERED SPECIES ACT; LACEY ACT.—  
24          In implementing this section, the Secretary of Agri-  
25          culture, the Secretary of the Interior, the Secretary

1 of Homeland Security, and the Secretary of the  
2 Treasury shall provide for appropriate coordination  
3 with the administration of the Endangered Species  
4 Act of 1973 (16 U.S.C. 1531 et seq.) and the Lacey  
5 Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

6 (2) OTHER LAWS.—Nothing in this section su-  
7 persedes or limits in any manner the functions or  
8 authority of the Secretary of Agriculture, the Sec-  
9 retary of the Interior, the Secretary of Homeland  
10 Security, or the Secretary of the Treasury under any  
11 other law, including laws relating to prohibited or  
12 restricted importations or possession of animals,  
13 plants, or other articles.

14 (3) EFFECT OF DETERMINATION.—No deter-  
15 mination under this section shall preclude any pro-  
16 ceeding or be considered determinative of any issue  
17 of fact or law in any proceeding under any law ad-  
18 ministered by the Secretary of Agriculture, the Sec-  
19 retary of the Interior, the Secretary of Homeland  
20 Security, or the Secretary of the Treasury.

21 (g) FURTHER IMPLEMENTATION.—The Secretary of  
22 Agriculture, the Secretary of the Interior, the Secretary  
23 of Homeland Security, and the Secretary of the Treasury,  
24 in consultation with the Committee, shall prescribe such  
25 regulations as are necessary to carry out this section.

1 (h) RESOURCES FOR IMPLEMENTATION.—Not later  
2 than 90 days after the date on which the Agreement en-  
3 ters into force, and as appropriate thereafter, the Presi-  
4 dent shall consult with the Committee on Finance of the  
5 Senate and the Committee on Ways and Means of the  
6 House of Representatives on the resources, including  
7 staffing, needed to implement Annex 18.3.4 of the Agree-  
8 ment.

9 **SEC. 502. REPORT TO CONGRESS.**

10 (a) IN GENERAL.—The United States Trade Rep-  
11 resentative, in consultation with the appropriate agencies,  
12 including U.S. Customs and Border Protection, the  
13 United States Fish and Wildlife Service, the Animal and  
14 Plant Health Inspection Service, the Forest Service, and  
15 the Department of State, shall report to the Committee  
16 on Finance of the Senate and the Committee on Ways and  
17 Means of the House of Representatives on—

18 (1) steps the United States and Peru have  
19 taken to carry out Annex 18.3.4 of the Agreement;  
20 and

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

1 (b) TIMING OF REPORT.—The United States Trade  
2 Representative shall report to the Committee on Finance  
3 of the Senate and the Committee on Ways and Means of  
4 the House of Representatives under subsection (a)—

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

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

9 (3) periodically thereafter.

## 10 **TITLE VI—OFFSETS**

### 11 **SEC. 601. CUSTOMS USER FEES.**

12 (a) Section 13031(j)(3)(A) of the Consolidated Omni-  
13 bus Budget Reconciliation Act of 1985 (19 U.S.C.  
14 58c(j)(3)(A)) is amended by striking “October 21, 2014”  
15 and inserting “December 13, 2014”.

16 (b) Section 13031(j)(3)(B)(i) of the Consolidated  
17 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.  
18 58c(j)(3)(B)(i)) is amended by striking “October 7, 2014”  
19 and inserting “December 13, 2014”.

### 20 **SEC. 602. TIME FOR PAYMENT OF CORPORATE ESTIMATED** 21 **TAXES.**

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

Union Calendar No. 266

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

**H. R. 3688**

[Report No. 110-421]

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**A BILL**

To implement the United States-Peru Trade  
Promotion Agreement.

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NOVEMBER 5, 2007

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