

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____**

OFFERED BY MR. CAMP OF MICHIGAN

**(United States–Korea Free Trade Agreement Implementation
Bill)**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

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

- Sec. 1. Short title.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

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

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

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Rules of origin.
- Sec. 203. Customs user fees.

- Sec. 204. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 205. Reliquidation of entries.
- Sec. 206. Recordkeeping requirements.
- Sec. 207. Enforcement relating to trade in textile or apparel goods.
- Sec. 208. Regulations.

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefitting From the Agreement

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

Subtitle B—Motor Vehicle Safeguard Measures

- Sec. 321. Motor vehicle safeguard measures.

Subtitle C—Textile and Apparel Safeguard Measures

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

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

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

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

TITLE V—OFFSETS

- Sec. 501. Merchandise processing fees.
- Sec. 502. Extension of customs user fees.

TITLE VI—BUDGETARY EFFECTS

- Sec. 601. Determination of budgetary effects.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

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

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

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

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

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

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

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

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

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

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

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

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

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

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

23 (1) the United States–Korea Free Trade Agree-
24 ment entered into on June 30, 2007, with the Gov-

1 ernment of Korea, and submitted to Congress on
2 **【_____ , 2011】**; and

3 (2) the statement of administrative action pro-
4 posed to implement the Agreement that was sub-
5 mitted to Congress on **【_____ , 2011】**.

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

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

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

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

24 (2) **CONSTRUCTION.**—Nothing in this Act shall
25 be construed—

1 (A) to amend or modify any law of the
2 United States, or

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

6 (b) RELATIONSHIP OF AGREEMENT TO STATE
7 LAW.—

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

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

17 (A) any law of a political subdivision of a
18 State; and

19 (B) any State law regulating or taxing the
20 business of insurance.

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

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

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

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

13 (a) IMPLEMENTING ACTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (B) the Commission;

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) **EXCEPTIONS.**—

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

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

22 (c) **TERMINATION OF THE AGREEMENT.**—On the
23 date on which the Agreement terminates, this Act (other
24 than this subsection) and the amendments made by this
25 Act (other than the amendments made by title V) shall
26 cease to have effect.

1 **TITLE II—CUSTOMS PROVISIONS**

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

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

5 (1) such modifications or continuation of any
6 duty,

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

9 (3) such additional duties,

10 as the President determines to be necessary or appropriate
11 to carry out or apply articles 2.3, 2.5, and 2.6, and Annex
12 2-B, Annex 4-B, and Annex 22-A, of the Agreement.

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

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

18 (2) such modifications as the United States
19 may agree to with Korea regarding the staging of
20 any duty treatment set forth in Annex 2–B of the
21 Agreement,

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

24 (4) such additional duties,

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

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

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

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

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

1 (B) such goods shall be free of duty for
2 each year thereafter.

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

7 (A) the rate of duty for such goods shall
8 be—

9 (i) 2.0 percent for year 1 of the
10 Agreement;

11 (ii) 1.5 percent for year 2 of the
12 Agreement;

13 (iii) 1.0 percent for year 3 of the
14 Agreement; and

15 (iv) 0.5 percent for year 4 of the
16 Agreement; and

17 (B) such goods shall be free of duty for
18 each year thereafter.

19 (3) CERTAIN TRUCKS.—In the case of origi-
20 nating goods of Korea classifiable under subheading
21 8704.21.00, 8704.22.50, 8704.23.00, 8704.31.00,
22 8704.32.00, or 8704.90.00 of the HTS that are en-
23 tered, or withdrawn from warehouse for consump-
24 tion—

1 (A) the rate of duty for such goods shall
2 be—

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

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

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

9 (B) such goods shall be free of duty for
10 each year thereafter.

11 (4) DEFINITIONS.—In this subsection—

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

17 (B) the terms “year 2 of the Agreement”,
18 “year 3 of the Agreement”, “year 4 of the
19 Agreement”, “year 5 of the Agreement”, “year
20 6 of the Agreement”, “year 7 of the Agree-
21 ment”, “year 8 of the Agreement”, and “year
22 9 of the Agreement” mean the second, third,
23 fourth, fifth, sixth, seventh, eighth, and ninth
24 calendar years, respectively, in which the Agree-
25 ment is in force.

1 **SEC. 202. RULES OF ORIGIN.**

2 (a) APPLICATION AND INTERPRETATION.—In this
3 section:

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

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

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

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

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

24 (2) the good—

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

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

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

10 (B) satisfies all other applicable require-
11 ments of this section; or

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

15 (c) REGIONAL VALUE-CONTENT.—

16 (1) IN GENERAL.—For purposes of subsection
17 (b)(2), the regional value-content of a good referred
18 to in Annex 6–A of the Agreement, except for goods
19 to which paragraph (4) applies, shall be calculated
20 by the importer, exporter, or producer of the good,
21 on the basis of the build-down method described in
22 paragraph (2) or the build-up method described in
23 paragraph (3).

24 (2) BUILD-DOWN METHOD.—

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

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

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

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

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

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

16 (3) BUILD-UP METHOD.—

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

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

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

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

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

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

8 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE
9 GOODS.—

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

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

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

19 (i) AUTOMOTIVE GOOD.—The term
20 “automotive good” means a good provided
21 for in any of subheadings 8407.31 through
22 8407.34, subheading 8408.20, heading
23 8409, or any of headings 8701 through
24 8708.

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

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

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

13 (C) MOTOR VEHICLES.—

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

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

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

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

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

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

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

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

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

12 (i) average the amounts calculated
13 under the net cost formula contained in
14 subparagraph (A) over—

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

18 (II) any quarter or month, or

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

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

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

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

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

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

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

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

19 (d) VALUE OF MATERIALS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) ACCUMULATION.—

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

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

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

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

23 (A) the value of all nonoriginating mate-
24 rials used in the production of the good that do
25 not undergo the applicable change in tariff clas-

1 sification (set forth in Annex 6–A of the Agree-
2 ment) does not exceed 10 percent of the ad-
3 justed value of the good;

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

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

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

12 (A) A nonoriginating material provided for
13 in chapter 3 that is used in the production of
14 a good provided for in chapter 3.

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

21 (C) A nonoriginating material provided for
22 in chapter 4, or a nonoriginating dairy prepara-
23 tion containing over 10 percent by weight of
24 milk solids provided for in subheading 1901.90,

1 that is used in the production of any of the fol-
2 lowing goods:

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

6 (ii) Mixes and doughs, containing over
7 25 percent by weight of butterfat, not put
8 up for retail sale, provided for in sub-
9 heading 1901.20.

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

14 (iv) Goods provided for in heading
15 2105.

16 (v) Beverages containing milk pro-
17 vided for in subheading 2202.90.

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

21 (D) A nonoriginating material provided for
22 in chapter 7 that is used in the production of
23 a good provided for in subheading 0703.10,
24 0703.20, 0709.59, 0709.60, 0711.90, 0712.20,

1 0714.20, or any of subheadings 0710.21
2 through 0710.80 or 0712.39 through 0713.10.

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

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

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

22 (H) A nonoriginating material provided for
23 in chapter 15 that is used in the production of
24 a good provided for in any of headings 1501
25 through 1508, or heading 1512, 1514, or 1515.

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

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

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

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 4–A of the Agreement, shall be
25 considered to be an originating good if the total

1 weight of all such fibers or yarns in that com-
2 ponent is not more than 7 percent of the total
3 weight of that component.

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

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

18 (g) FUNGIBLE GOODS AND MATERIALS.—

19 (1) IN GENERAL.—

20 (A) CLAIM FOR PREFERENTIAL TARIFF
21 TREATMENT.—A person claiming that a fun-
22 gible good or fungible material is an originating
23 good may base the claim either on the physical
24 segregation of the fungible good or fungible ma-
25 terial or by using an inventory management

1 method with respect to the fungible good or
2 fungible material.

3 (B) INVENTORY MANAGEMENT METHOD.—

4 In this subsection, the term “inventory manage-
5 ment method” means—

6 (i) averaging;

7 (ii) “last-in, first-out”;

8 (iii) “first-in, first-out”; or

9 (iv) any other method—

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

15 (II) otherwise accepted by that
16 country.

17 (2) ELECTION OF INVENTORY METHOD.—A

18 person selecting an inventory management method
19 under paragraph (1) for a particular fungible good
20 or fungible material shall continue to use that meth-
21 od for that fungible good or fungible material
22 throughout the fiscal year of such person.

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

24 (1) IN GENERAL.—Subject to paragraphs (2)
25 and (3), accessories, spare parts, or tools delivered

1 with a good that form part of the good's standard
2 accessories, spare parts, or tools shall—

3 (A) be treated as originating goods if the
4 good is an originating good; and

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

10 (2) CONDITIONS.—Paragraph (1) shall apply
11 only if—

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

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

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

24 (i) PACKAGING MATERIALS AND CONTAINERS FOR
25 RETAIL SALE.—Packaging materials and containers in

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

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

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

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

23 (1) undergoes further production or any other
24 operation outside the territory of Korea or the
25 United States, other than unloading, reloading, or

1 any other operation necessary to preserve the good
2 in good condition or to transport the good to the ter-
3 ritory of Korea or the United States; or

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

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

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

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

17 (A) in the case of textile or apparel goods,
18 10 percent of the adjusted value of the set; or

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

22 (n) DEFINITIONS.—In this section:

23 (1) ADJUSTED VALUE.—The term “adjusted
24 value” means the value determined in accordance
25 with Articles 1 through 8, Article 15, and the cor-

1 responding interpretive notes, of the Agreement on
2 Implementation of Article VII of the General Agree-
3 ment on Tariffs and Trade 1994 referred to in sec-
4 tion 101(d)(8) of the Uruguay Round Agreements
5 Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary,
6 to exclude any costs, charges, or expenses incurred
7 for transportation, insurance, and related services
8 incident to the international shipment of the mer-
9 chandise from the country of exportation to the
10 place of importation.

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

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

20 (B) Motor vehicles provided for in sub-
21 heading 8701.10 or any of subheadings
22 8701.30 through 8701.90.

23 (C) Motor vehicles for the transport of 15
24 or fewer persons provided for in subheading

1 8702.10 or 8702.90, or motor vehicles provided
2 for in subheading 8704.21 or 8704.31.

3 (D) Motor vehicles provided for in any of
4 subheadings 8703.21 through 8703.90.

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

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

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

22 (B) may encompass broad guidelines for
23 general application as well as detailed stand-
24 ards, practices, and procedures.

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

7 (A) Plants and plant products grown, and
8 harvested or gathered, in the territory of Korea,
9 the United States, or both.

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

12 (C) Goods obtained in the territory of
13 Korea, the United States, or both from live ani-
14 mals.

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

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

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

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

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

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

9 (i) is registered or recorded with
10 Korea and flies the flag of Korea; or

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

13 (H)(i) Goods taken by Korea or a person
14 of Korea from the seabed or subsoil outside the
15 territory of Korea, the United States, or both,
16 if Korea has rights to exploit such seabed or
17 subsoil; or

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

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

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

3 (J) Waste and scrap derived from—

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

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

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

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

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

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

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

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

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

10 (A) fuel and energy;

11 (B) tools, dies, and molds;

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

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

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

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

21 (G) catalysts and solvents; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (20) REMANUFACTURED GOOD.—The term “re-
13 manufactured good” means a good that is classified
14 under chapter 84, 85, 87, or 90 or heading 9402,
15 and that—

16 (A) is entirely or partially comprised of re-
17 covered goods; and

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

21 (21) TOTAL COST.—

22 (A) IN GENERAL.—The term “total
23 cost”—

24 (i) means all product costs, period
25 costs, and other costs for a good incurred

1 in the territory of Korea, the United
2 States, or both; and

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

9 (B) OTHER DEFINITIONS.—In this para-
10 graph:

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

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

22 (iii) OTHER COSTS.—The term “other
23 costs” means all costs recorded on the
24 books of the producer that are not product
25 costs or period costs, such as interest.

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

3 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

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

6 (A) the provisions set forth in Annex 4–A
7 and Annex 6–A of the Agreement; and

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

11 (2) MODIFICATIONS.—

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

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

23 (i) such modifications to the provi-
24 sions proclaimed under the authority of
25 paragraph (1)(A) as are necessary to im-

1 plement an agreement with Korea pursu-
2 ant to article 4.2.5 of the Agreement; and
3 (ii) before the end of the 1-year period
4 beginning on the date on which the Agree-
5 ment enters into force, modifications to
6 correct any typographical, clerical, or other
7 nonsubstantive technical error regarding
8 the provisions of chapters 50 through 63
9 (as included in Annex 4-A of the Agree-
10 ment).

11 (3) FIBERS, YARNS, OR FABRICS NOT AVAIL-
12 ABLE IN COMMERCIAL QUANTITIES IN THE UNITED
13 STATES.—

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

19 (B) DEFINITIONS.—In this paragraph:

20 (i) INTERESTED ENTITY.—The term
21 “interested entity” means the Government
22 of Korea, a potential or actual purchaser
23 of a textile or apparel good, or a potential
24 or actual supplier of a textile or apparel
25 good.

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

5 (C) REQUESTS TO ADD FIBERS, YARNS, OR
6 FABRICS.—

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

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

18 (I) the fiber, yarn, or fabric is
19 available in commercial quantities in a
20 timely manner in the United States;
21 or

22 (II) any interested entity objects
23 to the request.

24 (iii) PROCLAMATION AUTHORITY.—
25 The President may, within the time peri-

1 ods specified in clause (iv), proclaim that
2 the fiber, yarn, or fabric that is the subject
3 of the request is added to the list of the
4 United States in Appendix 4–B–1 of the
5 Agreement, if the President has deter-
6 mined under clause (ii) that—

7 (I) the fiber, yarn, or fabric is
8 not available in commercial quantities
9 in a timely manner in the United
10 States; or

11 (II) no interested entity has ob-
12 jected to the request.

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

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

19 (II) not later than 60 days after
20 the request is submitted, if the Presi-
21 dent determines, within 30 days after
22 the date on which the request is sub-
23 mitted, that the President does not
24 have sufficient information to make a
25 determination under clause (ii).

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

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

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

16 (i) IN GENERAL.—An interested entity
17 may request the President to remove from
18 the list of the United States in Appendix
19 4–B–1 of the Agreement, any fiber, yarn,
20 or fabric that has been added to that list
21 pursuant to subparagraph (C)(iii).

22 (ii) PROCLAMATION AUTHORITY.—Not
23 later than 30 days after the date on which
24 a request under clause (i) is submitted, the
25 President may proclaim that the fiber,

1 yarn, or fabric that is the subject of the re-
2 quest is removed from the list of the
3 United States in Appendix 4–B–1 of the
4 Agreement if the President determines
5 that the fiber, yarn, or fabric is available
6 in commercial quantities in a timely man-
7 ner in the United States.

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

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

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

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

1 **SEC. 203. CUSTOMS USER FEES.**

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

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

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

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

18 (1) in subsection (c)—

19 (A) by redesignating paragraph (12) as
20 paragraph (13); and

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

23 “(12) PRIOR DISCLOSURE REGARDING CLAIMS
24 UNDER THE UNITED STATES–KOREA FREE TRADE
25 AGREEMENT.—An importer shall not be subject to
26 penalties under subsection (a) for making an incor-

1 rect claim that a good qualifies as an originating
2 good under section 202 of the United States–Korea
3 Free Trade Agreement Implementation Act if the
4 importer, in accordance with regulations issued by
5 the Secretary of the Treasury, promptly and volun-
6 tarily makes a corrected declaration and pays any
7 duties owing with respect to that good.”; and

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

10 “(k) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
11 UNITED STATES–KOREA FREE TRADE AGREEMENT.—

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

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 KFTA 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 KFTA 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 “(k) DENIAL OF PREFERENTIAL TARIFF TREAT-
22 MENT UNDER THE UNITED STATES–KOREA FREE TRADE
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 202 of
4 the United States–Korea Free Trade Agreement Imple-
5 mentation Act, U.S. Customs and Border Protection, in
6 accordance with regulations issued by the Secretary of the
7 Treasury, may suspend preferential tariff treatment under
8 the United States–Korea Free Trade Agreement Imple-
9 mentation Act to entries of identical goods covered by sub-
10 sequent representations by that importer, exporter, or pro-
11 ducer until U.S. Customs and Border Protection deter-
12 mines that representations of that person are in con-
13 formity with such section 202.”.

14 **SEC. 205. RELIQUIDATION OF ENTRIES.**

15 Section 520(d) of the Tariff Act of 1930 (19 U.S.C.
16 1520(d)) is amended in the matter preceding paragraph
17 (1)—

18 (1) by striking “or”; and

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

22 **SEC. 206. RECORDKEEPING REQUIREMENTS.**

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

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

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

5 “(j) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
6 PORTED UNDER THE UNITED STATES–KOREA FREE
7 TRADE 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) KFTA CERTIFICATION OF ORIGIN.—
24 The term ‘KFTA certification of origin’ means
25 the certification established under article 6.15

1 of the United States–Korea Free Trade Agree-
2 ment that a good qualifies as an originating
3 good under such Agreement.

4 “(2) EXPORTS TO KOREA.—Any person who
5 completes and issues a KFTA 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 KFTA 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 (k), as so redesignated, by
20 striking “(h), or (i)” and inserting “(h), (i), or (j)”.

21 **SEC. 207. ENFORCEMENT RELATING TO TRADE IN TEXTILE**
22 **OR APPAREL GOODS.**

23 (a) ACTION DURING VERIFICATION.—

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

1 duct a verification pursuant to article 4.3 of the
2 Agreement for purposes of making a determination
3 under paragraph (2), the President may direct the
4 Secretary to take appropriate action described in
5 subsection (b) while the verification is being con-
6 ducted.

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

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

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

17 (i) qualifies as an originating good
18 under section 202, or

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

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

23 (1) suspension of liquidation of the entry of any
24 textile or apparel good exported or produced by the
25 person that is the subject of a verification under

1 subsection (a)(1) regarding compliance described in
2 subsection (a)(2)(A), in a case in which the request
3 for verification was based on a reasonable suspicion
4 of unlawful activity related to such goods; and

5 (2) suspension of liquidation of the entry of a
6 textile or apparel good for which a claim has been
7 made that is the subject of a verification under sub-
8 section (a)(1) regarding a claim described in sub-
9 section (a)(2)(B).

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

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

22 (1) denial of preferential tariff treatment under
23 the Agreement with respect to—

24 (A) any textile or apparel good exported or
25 produced by the person that is the subject of a

1 verification under subsection (a)(1) regarding
2 compliance described in subsection (a)(2)(A); or
3 (B) the textile or apparel good for which a
4 claim has been made that is the subject of a
5 verification under subsection (a)(1) regarding a
6 claim described in subsection (a)(2)(B); and

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

8 (A) any textile or apparel good exported or
9 produced by the person that is the subject of a
10 verification under subsection (a)(1) regarding
11 compliance described in subsection (a)(2)(A); or

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

16 (e) PUBLICATION OF NAME OF PERSON.—In accord-
17 ance with article 4.3.11 of the Agreement, the Secretary
18 of the Treasury may publish the name of any person that
19 the Secretary 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 (f) CERTIFICATE OF ELIGIBILITY.—The Commis-
2 sioner responsible for U.S. Customs and Border Protec-
3 tion of the Department of Homeland Security may require
4 an importer to submit at the time the importer files a
5 claim for preferential tariff treatment under Annex 4–B
6 of the Agreement a certificate of eligibility, properly com-
7 pleted and signed by an authorized official of the Govern-
8 ment of Korea.

9 (g) VERIFICATIONS IN THE UNITED STATES.—If the
10 government of a country that is a party to a free trade
11 agreement with the United States makes a request for a
12 verification pursuant to that agreement, the Secretary of
13 the Treasury may request a verification of the production
14 of any textile or apparel good in order to assist that gov-
15 ernment in determining whether—

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

18 (2) an exporter, producer, or other enterprise
19 located in the United States involved in the move-
20 ment of textile or apparel goods from the United
21 States to the territory of the requesting government
22 is complying with applicable customs laws, regula-
23 tions, and procedures regarding trade in textile or
24 apparel goods.

1 **SEC. 208. 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 202;

5 (2) the amendment made by section 203; and

6 (3) any proclamation issued under section
7 202(o).

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

10 **SEC. 301. DEFINITIONS.**

11 In this title:

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

15 (2) **KOREAN MOTOR VEHICLE ARTICLE.**—The
16 term “Korean motor vehicle article” means a good
17 provided for in heading 8703 or 8704 of the HTS
18 that qualifies as an originating good under section
19 202(b).

20 (3) **KOREAN TEXTILE OR APPAREL ARTICLE.**—
21 The term “Korean textile or apparel article” means
22 a textile or apparel good (as defined in section 3(5))
23 that is a Korean article.

1 **Subtitle A—Relief From Imports**
2 **Benefitting From the Agreement**

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

4 (a) FILING OF PETITION.—

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

14 (2) PROVISIONAL RELIEF.—An entity filing a
15 petition under this subsection may request that pro-
16 visional relief be provided as if the petition had been
17 filed under section 202(a) of the Trade Act of 1974
18 (19 U.S.C. 2252(a)).

19 (3) CRITICAL CIRCUMSTANCES.—Any allegation
20 that critical circumstances exist shall be included in
21 the petition.

22 (b) INVESTIGATION AND DETERMINATION.—Upon
23 the filing of a petition under subsection (a), the Commis-
24 sion, unless subsection (d) applies, shall promptly initiate
25 an investigation to determine whether, as a result of the

1 reduction or elimination of a duty provided for under the
2 Agreement, a Korean article is being imported into the
3 United States in such increased quantities, in absolute
4 terms or relative to domestic production, and under such
5 conditions that imports of the Korean article constitute
6 a substantial cause of serious injury or threat thereof to
7 the domestic industry producing an article that is like, or
8 directly competitive with, the imported article.

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

13 (1) Paragraphs (1)(B) and (3) of subsection
14 (b).

15 (2) Subsection (c).

16 (3) Subsection (d).

17 (4) Subsection (i).

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

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

2 (a) DETERMINATION.—Not later than 120 days (180
3 days if critical circumstances have been alleged) after the
4 date on which an investigation is initiated under section
5 311(b) with respect to a petition, the Commission shall
6 make the determination required under that section.

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

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

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

1 the determination and to facilitate the efforts of the
2 domestic industry to make a positive adjustment to
3 import competition.

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

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

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

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

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

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

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

15 **SEC. 313. PROVISION OF RELIEF.**

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

1 termines necessary to remedy or prevent the injury found
2 by the Commission and to facilitate the efforts of the do-
3 mestic industry to make a positive adjustment to import
4 competition.

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

9 (c) NATURE OF RELIEF.—

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

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

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

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

23 (ii) the column 1 general rate of duty
24 imposed under the HTS on like articles on

1 the day before the date on which the
2 Agreement enters into force.

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

4 In the case of imports of an article to which a duty
5 is applied on a seasonal basis, the import relief that
6 the President is authorized to provide under this
7 section is as follows:

8 (A) The suspension of any further reduc-
9 tion provided for under Annex 2–B of the
10 Agreement in the duty imposed on the article.

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

14 (i) the column 1 general rate of duty
15 imposed under the HTS on like articles for
16 the corresponding season immediately pre-
17 ceding the date the import relief is pro-
18 vided; or

19 (ii) the column 1 general rate of duty
20 imposed under the HTS for the cor-
21 responding season immediately preceding
22 the date on which the Agreement enters
23 into force.

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

1 section is greater than 1 year, the President shall
2 provide for the progressive liberalization (described
3 in article 10.2.7 of the Agreement) of such relief at
4 regular intervals during the period of its application.

5 (d) PERIOD OF RELIEF.—

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

10 (2) EXTENSION.—

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

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

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

4 (B) ACTION BY COMMISSION.—

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

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

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

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

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

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

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

23 (1) subtitle B or C; or

24 (2) chapter 1 of title II of the Trade Act of
25 1974 (19 U.S.C. 2251 et seq.).

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

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

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

13 (c) PRESIDENTIAL DETERMINATION.—Import relief
14 may be provided under this subtitle in the case of a Ko-
15 rean article after the date on which such relief would, but
16 for this subsection, terminate under subsection (a) and
17 (b), if the President determines that Korea has consented
18 to such relief.

19 **SEC. 315. COMPENSATION AUTHORITY.**

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

1 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

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

4 (1) by striking “and”; and

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

8 **Subtitle B—Motor Vehicle**
9 **Safeguard Measures**

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

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

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

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

18 (3) Section 313(d)(2)(C) shall be applied and
19 administered by substituting “4 years” for “3
20 years”.

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

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

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

8 **Subtitle C—Textile and Apparel**
9 **Safeguard Measures**

10 **SEC. 331. COMMENCEMENT OF ACTION FOR RELIEF.**

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

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

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

2 (a) DETERMINATION.—

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

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

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

24 (B) shall not consider changes in tech-
25 nology or consumer preference as factors sup-

1 porting a determination of serious damage or
2 actual threat 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—

15 (A) the suspension of any further reduc-
16 tion provided for under Annex 2–B of the
17 Agreement in the duty imposed on the article;
18 or

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

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

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

5 **SEC. 333. PERIOD OF RELIEF.**

6 (a) IN GENERAL.—Subject to subsection (b), the im-
7 port relief that the President provides under section
8 332(b) may not be in effect for more than 2 years.

9 (b) EXTENSION.—

10 (1) IN GENERAL.—Subject to paragraph (2),
11 the President may extend the effective period of any
12 import relief provided under this subtitle for a pe-
13 riod of not more than 2 years, if the President de-
14 termines that—

15 (A) the import relief continues to be nec-
16 essary to remedy or prevent serious damage
17 and to facilitate adjustment by the domestic in-
18 dustry to import competition; and

19 (B) there is evidence that the industry is
20 making a positive adjustment to import com-
21 petition.

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

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

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

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

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

8 (A) subtitle A; or

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

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

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

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

17 No import relief may be provided under this subtitle
18 with respect to any article after the date that is 10 years
19 after the date on which duties on the article are eliminated
20 pursuant to the Agreement.

21 **SEC. 337. COMPENSATION AUTHORITY.**

22 For purposes of section 123 of the Trade Act of 1974
23 (19 U.S.C. 2133), any import relief provided by the Presi-
24 dent under this subtitle shall be treated as action taken
25 under chapter 1 of title II of such Act (19 U.S.C. 2251
26 et seq.).

1 **SEC. 338. CONFIDENTIAL BUSINESS INFORMATION.**

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

14 **Subtitle D—Cases Under Title II of**
15 **the Trade Act of 1974**

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

17 (a) EFFECT OF IMPORTS.—If, in any investigation
18 initiated under chapter 1 of title II of the Trade Act of
19 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
20 affirmative determination (or a determination which the
21 President may treat as an affirmative determination under
22 such chapter by reason of section 330(d) of the Tariff Act
23 of 1930 (19 U.S.C. 1330(d))), the Commission shall also
24 find (and report to the President at the time such injury
25 determination is submitted to the President) whether im-

1 ports of the Korean article are a substantial cause of seri-
2 ous injury or threat thereof.

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

10 **TITLE IV—PROCUREMENT**

11 **SEC. 401. ELIGIBLE PRODUCTS.**

12 Section 308(4)(A) of the Trade Agreements Act of
13 1979 (19 U.S.C. 2518(4)(A)) is amended—

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

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

17 (3) by adding at the end the following new
18 clause:

19 “(ix) a party to the United States–
20 Korea Free Trade Agreement, a product or
21 service of that country or instrumentality
22 which is covered under that agreement for
23 procurement by the United States.”.

1 **TITLE V—OFFSETS**

2 **SEC. 501. MERCHANDISE PROCESSING FEES.**

3 (a) IN GENERAL.—Section 13031(a)(9) of the Con-
4 solidated Omnibus Budget Reconciliation Act of 1985 (19
5 U.S.C. 58c(a)(9)) is amended—

6 (1) in subparagraph (A), by striking “0.21”
7 and inserting “0.3464”; and

8 (2) in subparagraph (B)(i), by striking “0.21”
9 and inserting “0.3464”.

10 (b) EFFECTIVE DATE.—This section and the amend-
11 ments made by this section shall apply to processing of
12 merchandise on or after the date that is 15 days after
13 the date of the enactment of this Act.

14 **SEC. 502. EXTENSION OF CUSTOMS USER FEES.**

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

18 “(C)(i) Notwithstanding subparagraph (A), fees
19 may be charged under paragraphs (9) and (10) of
20 subsection (a) of this section during the period be-
21 ginning on October 29, 2020, and ending on Sep-
22 tember 30, 2021.

23 “(ii) Notwithstanding subparagraph (B)(i), fees
24 may be charged under paragraphs (1) through (8) of
25 subsection (a) of this section during the period be-

1 ginning on October 8, 2020, and ending on August
2 31, 2021.”.

3 **TITLE VI—BUDGETARY EFFECTS**

4 **SEC. 601. DETERMINATION OF BUDGETARY EFFECTS.**

5 The budgetary effects of this Act, for the purpose of
6 complying with the Statutory Pay-As-You-Go Act of 2010,
7 shall be determined by reference to the latest statement
8 titled “Budgetary Effects of PAYGO Legislation” for this
9 Act, submitted for printing in the Congressional Record
10 by the Chairman of the House Budget Committee, pro-
11 vided that such statement has been submitted prior to the
12 vote on passage.

