

S 1643

United States-Panama Trade Promotion Agreement Implementation Act

Congress: 112 (2011–2013, Ended)

Chamber: Senate

Policy Area: Foreign Trade and International Finance

Introduced: Oct 3, 2011

Current Status: By Senator Baucus from Committee on Finance filed written report. Report No. 112-224. Additional views

Latest Action: By Senator Baucus from Committee on Finance filed written report. Report No. 112-224. Additional views filed. (Sep 20, 2012)

Official Text: <https://www.congress.gov/bill/112th-congress/senate-bill/1643>

Sponsor

Name: Sen. Baucus, Max [D-MT]

Party: Democratic • **State:** MT • **Chamber:** Senate

Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Hatch, Orrin G. [R-UT]	R · UT		Oct 3, 2011
Sen. McConnell, Mitch [R-KY]	R · KY		Oct 3, 2011

Committee Activity

Committee	Chamber	Activity	Date
Finance Committee	Senate	Reported By	Oct 11, 2011

Subjects & Policy Tags

Policy Area:

Foreign Trade and International Finance

Related Bills

Bill	Relationship	Last Action
112 HR 3079	Identical bill	Oct 21, 2011: Became Public Law No: 112-43.

(This measure has not been amended since it was introduced. The summary has been expanded because action occurred on the measure.)

United States-Panama Trade Promotion Agreement Implementation Act - **Title I: Approval of, and General Provisions Relating to, the Agreement** - (Sec. 101) Approves the United States-Panama Trade Promotion Agreement (the Agreement) entered into on June 28, 2007, with the government of Panama, and the statement of administrative action proposed to implement the Agreement, both submitted to Congress on October 3, 2011. Allows for the Agreement's entry into force upon certain conditions being met on or after January 1, 2012.

(Sec. 103) Authorizes the President to proclaim actions, and other appropriate officers of the U.S. government to issue regulations, necessary to ensure appropriate implementation of any provision of this Act that takes effect on the date the Agreement enters into force. Declares that proclaimed actions that are not subject to consultation and layover requirements under this Act shall not take effect before the 15th day after the text of the proclamation is published in the Federal Register.

(Sec. 104) Permits presidential proclamations calling for action under this Act to be proclaimed only if: (1) the President has obtained advice regarding the proposed action from the appropriate advisory committees and the U.S. International Trade Commission (ITC), (2) the President has reported to specified congressional committees with respect to such action, (3) a period of 60 days has expired, and (4) the President has consulted with the appropriate congressional committees during such 60-day period.

(Sec. 105) Authorizes the President to establish or designate within the Department of Commerce an office to provide administrative assistance to dispute settlement panels established under the Agreement. Authorizes appropriations.

(Sec. 106) Authorizes the United States to resolve any claim against it covered by the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in the Agreement.

Title II: Customs Provisions - (Sec. 201) Authorizes the President to proclaim necessary or appropriate modifications or continuation of duty, continuation of duty-free or excise treatment, or additional duties to carry out the Agreement.

Requires the President to terminate the designation of Panama as a beneficiary developing country (BDC) for purposes of the General System of Preferences program under the Trade Act of 1974 and preferential treatment under the Caribbean Basin Economic Recovery Act (CBERA) on the date the Agreement enters into force. Makes exceptions to this termination of Panama's designation as a BDC under CBERA with respect to: (1) Panama's exception from certain aspects of the process of determining material injury in a countervailing or antidumping investigation, (2) specified duty-free treatment, and (3) certain excise tax purposes.

Authorizes the President, subject to the consultation and layover requirements of this Act, to deem as necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement such: (1) modifications or continuation of any duty, (2) modifications as the United States may agree to with Panama regarding the staging of any duty treatment specified in the Agreement, (3) continuation of duty-free or excise treatment, or (4) additional duties.

(Sec. 202) Prescribes requirements for additional duties, under specified conditions, on certain agricultural safeguard goods.

(Sec. 203) Prescribes certain rules of origin with respect to the reduction and elimination of duties imposed by the United States and Panama on certain goods wholly obtained or produced entirely in the territory of the other country. Prescribes a special rule for certain automotive goods. Specifies content requirements allowing certain textile and apparel goods to be considered originating goods.

(Sec. 204) Amends the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to prohibit the charge of a fee for certain customs services with respect to originating goods under the Agreement. Prohibits any service exempted from such fees from being funded with money from the Customs User Fee Account.

(Sec. 205) Amends the Tariff Act of 1930 to exempt: (1) an importer from penalties for making an incorrect claim that a good qualifies as an originating good under the Agreement if the importer voluntarily and promptly makes a corrected declaration and pays any duties owing; and (2) an exporter or producer from penalties for making false certifications of origin under the Agreement if such person, promptly after issuing such certification, has reason to believe that it contains or is based on incorrect information, and voluntarily provides a written notice to every recipient of it.

Exempts persons from penalties if: (1) the information was correct at the time it was provided in a Panama Trade Promotion Agreement (Panama TPA) certification of origin but was later rendered incorrect because of a change in circumstances; and (2) the person promptly and voluntarily provides written notice of the change in circumstances to all recipients of such certification.

Declares that, if the U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin, CBP may suspend preferential tariff treatment under the Agreement for entries of identical goods covered by subsequent representations by the individuals until it determines that the representations conform with such rules.

(Sec. 206) Authorizes the CBP/ICE (formerly the U.S. Customs Service) to reliquidate an entry and refund any excess duties (including merchandise processing fees) paid on a good qualifying under the rules of origin for which no claim for preferential treatment was made at the time of importation if the importer takes certain actions within one year after such importation.

(Sec. 207) Requires a person who issues a Panama TPA certification of origin for a good exported from the United States to make, keep for at least five years after such certification is issued, and render for examination and inspection all records and supporting documents related to such certification.

(Sec. 208) Authorizes the President to direct the Secretary of the Treasury, during the period of a verification procedure by the government of Panama, to determine: (1) that an enterprise in Panama is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods; or (2) that a claim is accurate that such a good exported or produced by the enterprise qualifies as an originating good, or is a good of Panama.

Requires the Secretary to: (1) suspend preferential tariff treatment under the Agreement of any textile or apparel good that a person subject to such verification has produced or exported if the Secretary believes there is insufficient information to sustain a claim for such treatment, (2) deny preferential treatment to such goods if the Secretary decides that a person has provided incorrect information to support a claim for such treatment, (3) detain such goods if the Secretary considers there is insufficient information to determine their country of origin, and (4) deny entry to such goods if the Secretary determines that a person has provided erroneous information of their origin.

Authorizes: (1) the President to deny preferential treatment and entry into the United States to such textile and apparel goods, if the Secretary determines that the information obtained from verification is insufficient to make a determination; and (2) the Secretary to publish the name of any person engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in such goods, or who has failed to demonstrate that it produces or is capable of producing them.

Title III: Relief From Imports - Subtitle A: Relief From Imports Benefiting From the Agreement - (Sec. 311)

Authorizes an entity (including a trade association, firm, certified or recognized union, or group of workers) to petition the ITC for an adjustment to U.S. obligations under the Agreement. Requires the ITC, upon the filing of a petition, to investigate promptly whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Panamanian article is being imported into the United States in such increased quantities as to be a substantial cause or threat of serious injury to the domestic industry producing an article like, or directly competitive with, the imported article. Exempts from such an investigation any Panamanian articles receiving import relief under the Agreement.

(Sec. 313) Requires the President, after receiving an affirmative injury determination from the ITC, to provide (including the extension) in the aggregate up to four-years of import relief to remedy or prevent such injury and to facilitate efforts of the domestic industry to make a positive adjustment to import competition. Includes among such relief measures: (1) suspension of any further reduction provided by the Agreement in the duty imposed on such article, and (2) an increase in the rate of duty imposed on such article to a level that does not exceed an amount determined according to a specified formula.

(Sec. 314) Prohibits any import relief 10 years after the Agreement enters into force, except for articles whose period for tariff elimination exceeds 10 years.

(Sec. 315) Applies to the four-year import relief provided by the President (see section 313, above) the compensation authority of the Trade Act of 1974 which authorizes the President to grant Panama new concessions as compensation for the imposition of import relief in a bilateral safeguard investigation in order to maintain the general level of reciprocal concessions under the Agreement.

(Sec. 316) Amends the Trade Act of 1974 to apply to ITC investigations conducted under this Act the procedural requirements of the Tariff Act of 1930 concerning release of confidential business information.

Subtitle B: Textile and Apparel Safeguard Measures - (Sec. 321) Authorizes an interested party to request the President to adjust U.S. obligations under the Agreement. Requires the President, pursuant to such a request, to determine whether, as a result of the elimination of a duty under the Agreement, a Panamanian textile or apparel article is being imported into the United States in such increased quantities as to constitute a substantial cause or threat of serious damage to a domestic industry producing an article like, or directly competitive with, the imported article.

(Sec. 322) Authorizes the President, if an affirmative serious damage determination is made, to provide certain import relief to remedy or prevent the damage and to facilitate adjustment by the domestic industry, including to increase the rate of duty imposed on the article to a level that does not exceed an amount determined according to a specified formula.

(Sec. 323) Limits such relief (including the extension) in the aggregate to three years.

(Sec. 326) Prohibits any import relief under this subtitle with respect to any article five years after the Agreement enters into force.

(Sec. 327) Applies to any import relief provided by the President under this subtitle the compensation authority of the Trade Act of 1974, which authorizes the President to grant Panama new concessions as compensation for the imposition of import relief in a textile and apparel safeguard proceeding, in order to maintain the general level of reciprocal concessions under the Agreement.

(Sec. 328) Prohibits the President from releasing confidential business information received in connection with an investigation or determination under this subtitle unless the submitting party had notice, at the time of submission, that such information would be released, or the party subsequently consents to such release. Requires any party submitting such confidential business information also to provide a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C: Cases Under Title II of the Trade Act of 1974 - (Sec. 331) Requires the ITC, whenever it makes an affirmative determination that an imported article constitutes a substantial cause or threat of serious injury to a domestic industry producing an article like or directly competitive with it, also to find (and report to the President) whether imports from Panama are a substantial cause or threat of serious injury to such industry. Authorizes the President to exclude goods of Panama from any import relief action if they are not a substantial cause or threat of serious injury to the domestic industry.

Title IV: Miscellaneous - (Sec. 401) Amends the Trade Agreements Act of 1979 to make eligible for U.S. government procurement products or services of a foreign country or instrumentality that is a party to the Agreement.

(Sec. 402) Amends CBERA to remove Panama from the list eligible for designation as a beneficiary country for duty-free treatment under CBERA of eligible Panamanian products imported into the United States.

Title V: Offsets - (Sec. 501) Amends COBRA to extend user fees for certain customs services performed in the period September 1- 30, 2021.

(Sec. 502) Increases by 0.25% the required estimated tax payments which are otherwise due in the third quarter of 2012 and 2016 for corporations with assets of not less than \$1 billion.

Actions Timeline

- **Sep 20, 2012:** By Senator Baucus from Committee on Finance filed written report. Report No. 112-224. Additional views filed.
- **Oct 11, 2011:** Committee on Finance. Ordered to be reported without amendment favorably.
- **Oct 11, 2011:** Committee on Finance. Reported by Senator Baucus without amendment. Without written report.
- **Oct 11, 2011:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 191.
- **Oct 3, 2011:** Introduced in Senate
- **Oct 3, 2011:** Read twice and referred to the Committee on Finance.