

**Bingaman Amendment #1** to the “United States-Colombia Trade Promotion Agreement Implementing Act”

***Short Title:* To (1) provide funds to ensure Colombia can comply with the labor requirements in the FTA, to monitor whether Colombia is in compliance, and to enforce the FTA labor provisions, and (2) require periodic reports from the President on the progress made by Colombia in implementing the labor-related requirements in the FTA and the Labor Action Plan.**

*Description of Amendment:*

Of the funds raised in Title VI [customs user fees] or other funds, \$20 million shall be made available to ILAB (DOL) until December 31, 2014 for activities to increase Colombia’s capacity to comply with the labor requirements in the FTA, to monitor whether Colombia is in compliance, and to enforce the FTA labor provisions.

Of the funds raised in Title VI [customs user fees] or other funds, \$5 million shall be made available to DOJ until December 31, 2014 to assist Colombia with prosecutorial training and other activities to enforce Colombia’s laws as required by the FTA.

The President shall report every two years for the next 10 years on the progress made by Colombia in implementing the labor-related requirements in the FTA and the Labor Action Plan.

**Bingaman Amendment #2** to the “United States-Colombia Trade Promotion Agreement Implementing Act”

**Short Title: Require USITC to report on the economy-wide effect of the Colombia FTA after 10 years.**

*Description of Amendment:*

(Identical amendments are filed for Korea and Panama.)

USITC reports on the *potential* economy-wide effects of pending free trade agreements, but does not report on the actual economic effects after the agreements are passed.

This provision requires USITC to report on the actual economy-wide effects of the Colombia FTA in 10 years. The reason for enacting this requirement now is to allow USITC to prepare; advance notice allows USITC to collect in the years ahead the data it needs to conduct the analysis.

## **Text of the Wyden Amendment #1 to the U.S.-Colombia Free Trade Agreement**

**Short Title:** To discourage beneficiary countries of the special trade preferences provided under the Generalized System of Preferences from discriminating against American digital goods and digital services.

**Short Description:**

Under the Generalized System of Preferences (GSP), the President is authorized to grant duty-free treatment to goods that originate in GSP beneficiary countries. In determining whether a country qualifies for GSP beneficiary status, current law requires the President to consider a number of factors, such as the extent to which a country has taken action to reduce trade distorting investment practices and policies.

Under this amendment, the President would also be required, under section 502(c) of the Trade Act of 1974, to consider whether or not such country engages in practices that directly or indirectly discriminate against, or deny fair and equitable market access to, the digital goods or digital services of United States businesses.

## **Text of the Wyden (#2)-Cardin Amendment to the U.S.-Colombia Free Trade Agreement**

**Short Title:** Discouraging gross violations of internationally recognized human rights

**Short Description:**

Under the African Growth and Opportunity Act (AGOA), enacted into law in 2000, the President is authorized to designate sub-Saharan African countries as eligible for AGOA beneficiary status, which then confers duty-free treatment to most goods originating in such country. The President is authorized to designate a sub-Saharan African country as a beneficiary of AGOA if he determines that the country does not engage in gross violations of internationally recognized human rights and cooperates in international efforts to eliminate human rights violations. The eligibility criteria established in the Generalized System of Preferences (GSP), a program established in the 1970s, includes no such reference to gross violations of human rights.

Under this amendment GSP would be amended to include as a basis for a country's ineligibility for GSP beneficiary status if the country engages in gross violations of human rights or fails to cooperate in international efforts to eliminate human rights violations.

### **Text of the Wyden Amendment #3 to the U.S.-Colombia Free Trade Agreement**

**Short Title:** Encouraging transparency for designation under the Generalized System of Preferences

**Short Description:**

Under the Generalized System of Preferences (GSP), the President is authorized to designate countries as a GSP beneficiary if they meet specific eligibility criteria that are found in the statute. This amendment would require the office of the United States Trade Representative (USTR) to establish and make public the benchmarks that it uses to determine whether a country is meeting the established benchmarks. For the criteria in the statute that requires countries to make progress toward certain goals, the USTR would be required to establish what progress is required, how it is measured, and how countries have performed annually.

## Cantwell Amendment #1 to the Colombia Free Trade Agreement

Short Title: Affordable Footwear Act

Description of Amendment: *Amends the Harmonized Tariff Schedule of the United States to provide for temporary duty-free or reduced-duty treatment of certain footwear (including children's shoes) made of rubber or plastics that are imported into the United States.*

*Currently, many shoes sold in the United States, including most children's shoes, are subject to an outdated and regressive import duty that was originally designed to protect domestic shoe manufacturers from foreign competition. However, because there is no significant low-cost shoe manufacturing in the United States the tariff serves only as a tax on American consumers. This amendment will reduce the cost of shoes by eliminating these duties.*

## Cantwell Amendment #2 to the Colombia Free Trade Agreement

Short Title: Afghanistan and Pakistan Reconstruction Opportunity Zones

Description of Amendment: *Authorizes the President to: (1) designate an area within Afghanistan or specific areas of Pakistan as a Reconstruction Opportunity Zone, provided the country meets certain eligibility requirements; and (2) proclaim duty-free treatment for certain articles (including certain textile and apparel articles as well as non-textile or non-apparel articles) that are imported into the United States from a designated zone within such country, provided certain requirements are met.*

*The Reconstruction Opportunity Zones will help foster new economic development in Afghanistan and specific border regions of Pakistan and offer alternatives to extremism and narco*

## **Nelson Amendment #1 to the United States-Colombia Trade Promotion Agreement Implementation Act**

### **Short Title: Citrus Disease Research and Development Trust Fund Act**

#### **Description of Amendment:**

Based on the revised Citrus Disease Research and Development Trust Fund Act introduced by Senators Bill Nelson, Dianne Feinstein, and Barbara Boxer, the amendment modifies the Trade Act of 1974 to establish a Citrus Disease Research and Development Trust Fund, consisting of revenues from duties paid on imported citrus and citrus products. The purpose of the amendment is to establish a dedicated source of funding for scientific research aimed at addressing diseases, invasive pests, and other challenges to the U.S. citrus industry and providing for the dissemination of research findings to the citrus industry.

The Secretary of the Treasury shall transfer to the Trust Fund amounts that are attributable to the duties collected on articles that are citrus and citrus products classifiable under chapters 8, 20, 21, 22, and 33 of the Harmonized Tariff Schedule of the United States. The amount transferred to the Trust Fund in any fiscal year may not exceed the lesser of -- (A) an amount equal to 1/3 of the amount attributable to the duties received on the articles above, or (B) \$30,000,000.

Amounts in the Trust Fund would be available to the Secretary of Agriculture for expenditures relating to citrus disease research and development, including costs relating to contracts or other agreements. The Treasury Secretary, in consultation with the Agriculture Secretary, would submit annual reports on Trust Fund expenditures.

The amendment establishes a nine-member Citrus Disease Research and Development Trust Fund Advisory Board, which would advise the Agriculture Secretary on citrus research and development needs, propose a research and development agenda and annual budgets for the Trust Fund, and evaluate and review ongoing research funded by Trust Fund. The amendment also requires the President to notify Congress no later than 90 days before entering into an agreement if it will decrease duties collected on citrus imports or a decrease in amounts transferred to the Trust Fund.



The Trust Fund would terminate on December 31 of the fifth calendar year that begins after the date of the enactment and all amounts in the Trust Fund at that time would be transferred to the general fund of the Treasury.

## AMENDMENT

Menendez Amendment #1 to the Colombia FTA

### Short Title:

Cotton Trust Fund

### Description of Amendment:

Pursuant to S. 529, this amendment will reauthorize the 2006 program of duty reductions and duty refunds for imports of cotton shirting fabrics to shirt makers who continued manufacturing in the U.S. in the face of competition created offshore when Congress eliminated duties for imported finished dress shirts.

This amendment is appropriately offered to the Colombia FTA because duty reductions related to the new Colombia FTA and prior reductions pursuant to the Andean Trade Preference Act, as well as other trade agreements led to a tariff inversion, making it cheaper to manufacture shirts offshore than in the United States. The amendment would re-authorize the program through December 31, 2013. The Colombia FTA will exacerbate an already difficult situation for domestic shirt manufacturers.

- History: Beginning with the Canadian Free Trade Agreement, repeated in NAFTA, and again in trade preference programs benefiting Andean, Caribbean, and African countries, Congress eliminated duties on imported finished dress shirts. While those countries eliminated their duties on shirting fabrics they needed to import, our policy was to maintain a duty as high as 13.5%. This resulted in companies moving production to Canada and offshore. In 2006 Congress responded with the Cotton Trust Fund program – a combination of duty reductions and duty refunds to shirt makers who continued manufacturing in the U.S. The program expired at the end of 2009.

## **S.529**

**To extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes. (Introduced in Senate - IS)**

S 529 IS

112th CONGRESS

1st Session

**S. 529**

To extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes.

**IN THE SENATE OF THE UNITED STATES**

**March 9, 2011**

Mr. MENENDEZ (for himself, Mr. ALEXANDER, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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### **A BILL**

To extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.**

(a) Extensions- Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking everything after `suitable for use in men's and boys' shirts' in the article description column and by striking the date in the effective date column and inserting `12/31/2013':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

- (2) Heading 9902.52.09 (relating to woven fabrics of cotton).
- (3) Heading 9902.52.10 (relating to woven fabrics of cotton).
- (4) Heading 9902.52.11 (relating to woven fabrics of cotton).
- (5) Heading 9902.52.12 (relating to woven fabrics of cotton).
- (6) Heading 9902.52.13 (relating to woven fabrics of cotton).
- (7) Heading 9902.52.14 (relating to woven fabrics of cotton).
- (8) Heading 9902.52.15 (relating to woven fabrics of cotton).
- (9) Heading 9902.52.16 (relating to woven fabrics of cotton).
- (10) Heading 9902.52.17 (relating to woven fabrics of cotton).
- (11) Heading 9902.52.18 (relating to woven fabrics of cotton).
- (12) Heading 9902.52.19 (relating to woven fabrics of cotton).
- (13) Heading 9902.52.20 (relating to woven fabrics of cotton).
- (14) Heading 9902.52.21 (relating to woven fabrics of cotton).
- (15) Heading 9902.52.22 (relating to woven fabrics of cotton).
- (16) Heading 9902.52.23 (relating to woven fabrics of cotton).
- (17) Heading 9902.52.24 (relating to woven fabrics of cotton).
- (18) Heading 9902.52.25 (relating to woven fabrics of cotton).
- (19) Heading 9902.52.26 (relating to woven fabrics of cotton).
- (20) Heading 9902.52.27 (relating to woven fabrics of cotton).
- (21) Heading 9902.52.28 (relating to woven fabrics of cotton).
- (22) Heading 9902.52.29 (relating to woven fabrics of cotton).
- (23) Heading 9902.52.30 (relating to woven fabrics of cotton).
- (24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) Extension of Duty Refunds and Pima Cotton Trust Fund; Modification of Affidavit Requirements- Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109-432; 120 Stat. 3060) is amended--

(1) in subsection (b)--

(A) in paragraph (1), by striking `amounts determined by the Secretary' and all that follows through `5208.59.80' and inserting `amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208'; and

(B) in paragraph (2), by striking `October 1, 2008' and inserting `December 31, 2013';

(2) in subsection (c)--

(A) in the matter preceding paragraph (1), by striking `beginning in fiscal year 2007' and inserting `beginning in fiscal year 2011';

(B) by striking `grown in the United States' each place it appears; and

(C) in paragraph (2), in the matter preceding subparagraph (A), by inserting `that produce ring spun cotton yarns in the United States' after `of pima cotton';

(3) in subsection (d)--

(A) in the matter preceding paragraph (1), by inserting `annually' after `provided'; and

(B) in paragraph (1), by inserting `during the year in which the affidavit is filed and' after `imported cotton fabric'; and

(4) in subsection (f)--

(A) in the matter preceding paragraph (1), by inserting `annually' after `provided'; and

(B) in paragraph (1)--

(i) by striking `grown in the United States' and inserting `during the year in which the affidavit is filed and'; and

(ii) by inserting `in the United States' after `cotton yarns'.

(c) Effective Date- The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

## AMENDMENT

Menendez Amendment #2 to Colombia FTA

### Short Title:

Reporting requirement on the enforcement and implementation of the Colombia Labor Action Plan

### Description of Amendment:

This Amendment requires that the President report to the Congress annually for the next 5 years on the implementation and enforcement of the Colombia Labor Action Plan by the Government of Colombia

It is necessary and appropriate to include language in the implementing bill requiring reporting on the implementation of the Colombia Labor Action Plan to assist the Congress in overseeing and evaluating Colombia's implementation and enforcement of the Action Plan.

NAFTA and CAFTA both established a precedent for including reporting requirement in FTA implementing legislation.

### Proposed Language for New Reporting Section

PERIODIC REPORTS AND MEETINGS ON THE IMPLEMENTATION AND ENFORCEMENT OF THE COLOMBIA LABOR ACTION PLAN.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than the end of the 1-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter

during the succeeding 11-year period, the President shall report to the Congress on the progress made by Colombia in implementing and enforcing each element of the Colombia Labor Action Plan.

(2) CONTENTS OF REPORTS.—Each report under paragraph (1) shall include the following:

(A) A description of the progress made by the Government of Colombia in implementing and enforcing each element of the Colombia Labor Action Plan.

(B) A description of violent incidents against labor leaders and unionists in the preceding period, the legal status of such cases, and efforts to prosecute perpetrators of such violence.

(C) A description of all new issues affecting labor leaders and unionists in Colombia that were not covered by the Action Plan.

(D) A summary of public comments received on paragraphs (A)-(C).

(3) SOLICITATION OF PUBLIC COMMENTS.—The President shall establish a mechanism to solicit public comments for purposes of paragraph (2)(D).

(4) PERIODIC MEETINGS OF SECRETARY OF LABOR WITH THE LABOR MINISTER OF COLOMBIA AND UNION LEADERS.—

(A) PERIODIC MEETINGS.—The Secretary of Labor should take the necessary steps to meet periodically with the labor minister of Colombia and with Colombian labor leaders to discuss the progress on implementation and enforcement of the Colombia Labor Action Plan.

## **Cardin-Stabenow-Menendez Amendment #1 to the Colombia FTA**

### **Short Title: Inclusion of Labor Action Plan in Colombia Implementing Bill**

**Description of Amendment:** It is necessary and appropriate to include language in the implementing bill explicitly linking entry into force of the Colombia FTA to Colombia meeting its obligations under the Action Plan (obligations as of the date when Colombia is otherwise ready for entry into force).

The proposed language provides leverage to ensure that commitments under the Action Plan are met, creates an additional period to evaluate Colombia's progress and provides leverage to reformers in Colombia to push for reform. There are numerous, important commitments under the Action Plan that are scheduled to be completed after the expected vote on the Colombia FTA (most by the end of this year). Linking entry into force of the FTA to the completion of these commitments provides leverage to ensure that they will be fulfilled.

### **Existing Language:**

(1) At such time as the President determines that Colombia has taken measures necessary to comply with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Colombia providing for the entry into force, on or after January 1, 2012, of the Agreement with respect to the United States.

### **Proposed Language to Section 101(b) ("Conditions for Entry into Force of the Agreement"):**

**The President shall not make the determination under (1) unless the President determines that Colombia has taken all measures agreed to be taken by the date of the determination or by January 1, 2012, whichever is later, under the Colombian Action Plan Related to Labor Rights.**



## **Cardin-Schumer Amendment #2 to the Colombia FTA**

### **Short Title: Modification of the Wool Trust Fund**

**Description of Amendment:** In 2000, Congress enacted a grant and tariff relief program for the U.S. wool industry. The legislation created a “wool trust fund,” which provides payments to U.S. suit makers to compensate for the competitive damage to the U.S. suit industry caused by an “inverted tariffs” (inverted tariffs occur when the duty on a finished product is lower than the duty on the inputs used to make the finished product).

The wool trust fund also makes payments to U.S. wool fabric and yarn producers, as well as sheep growers, to encourage more U.S. production of wool fabrics and would ensure that thousands of textile and apparel workers remain employed. The trust fund is funded through the revenue collected from tariffs on wool textile imports (primarily yarns and fabrics). The wool trust fund and tariff relief package was reauthorized in 2008.

In 2008 and 2009, the revenue generated through wool fabric/yarn tariffs shrank considerably, resulting in much lower payments to U.S. wool suit producers and other recipients under the program. To address the immediate shortfall, this amendment would use revenue generated from tariffs on other apparel products to fund the wool trust fund at the level authorized in 2004. This amendment is necessary on the Colombia FTA because of its Rule of Origin provision on short-supply fabric.

### **Proposed language:**

This language would be similar to that included in S. 3793, the Job Creation and Tax Cuts Act of 2010 with two modifications:

- Including 2011
- Language which provides discretion to Customs and Border Patrol on the issues of late filing.

**Senate Finance Committee**

**“Mock” Mark-Up**

**U.S.-Colombia Trade Promotion Agreement Implementation Act**

Hatch Amendment #1 to the U.S.-Colombia Trade Promotion Agreement Implementation Act

Short Title: Removal of Ecuador from the extension of the Andean Trade Preference Act (ATPA).

Description of Amendment: The amendment would require the removal of Ecuador from the extension of the Andean Trade Preference Act (ATPA) under Section 502 of the implementing language of the United States-Colombia Trade Promotion Agreement. The purpose of the Amendment is to ensure Ecuador is not eligible to receive retroactive or prospective benefits under the ATPA.

Offset to be provided.

**Senate Finance Committee**

**“Mock” Mark-Up**

**U.S.-Colombia Trade Promotion Agreement Implementation Act**

Hatch Amendment #2 to the U.S.-Colombia Trade Promotion Agreement Implementation Act

Short Title: Limit the Andean Trade Preference Act (ATPA) extension to one year for both Colombia and Ecuador

Description of Amendment: The Amendment would require limiting the ATPA extension in Section 502 of the implementing language of the United States-Colombia Trade Promotion Agreement to one year, by amending the extension date from “July 31, 2013” to “July 31, 2012.” Currently, the implementing language extends the ATPA for two years. The Amendment will limit the extension of ATPA to one year for both Colombia and Ecuador.

Offset to be provided.

## Enzi Amendment #1 to the Colombia Trade Promotion Agreement

Short Title: Ensuring Equality in Labor Law Requirements

Description of Amendment: Insert language in the text of the agreement that expressly states the U.S. Government shall not require the Colombian Government to perform any actions to implement the Colombia Labor Action Plan or actions to implement the U.S. – Colombia Trade Promotion Agreement that goes beyond any existing requirements or statutes of U.S. labor law.