

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Trade Facilitation and Trade Enforcement Act of 2015”.

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

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

### TITLE I—TRADE FACILITATION AND TRADE ENFORCEMENT

Sec. 101. Improving partnership programs.  
Sec. 102. Report on effectiveness of trade enforcement activities.

## 2

- Sec. 103. Priorities and performance standards for customs modernization, trade facilitation, and trade enforcement functions and programs.
- Sec. 104. Educational seminars to improve efforts to classify and appraise imported articles, to improve trade enforcement efforts, and to otherwise facilitate legitimate international trade.
- Sec. 105. Joint strategic plan.
- Sec. 106. Automated Commercial Environment.
- Sec. 107. International Trade Data System.
- Sec. 108. Consultations with respect to mutual recognition arrangements.
- Sec. 109. Commercial Customs Operations Advisory Committee.
- Sec. 110. Centers of Excellence and Expertise.
- Sec. 111. Commercial Targeting Division and National Targeting and Analysis Groups.
- Sec. 112. Report on oversight of revenue protection and enforcement measures.
- Sec. 113. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 114. Importer of record program.
- Sec. 115. Establishment of new importer program.

## TITLE II—IMPORT HEALTH AND SAFETY

- Sec. 201. Interagency import safety working group.
- Sec. 202. Joint import safety rapid response plan.
- Sec. 203. Training.

## TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

- Sec. 301. Definition of intellectual property rights.
- Sec. 302. Exchange of information related to trade enforcement.
- Sec. 303. Seizure of circumvention devices.
- Sec. 304. Enforcement by U.S. Customs and Border Protection of works for which copyright registration is pending.
- Sec. 305. National Intellectual Property Rights Coordination Center.
- Sec. 306. Joint strategic plan for the enforcement of intellectual property rights.
- Sec. 307. Personnel dedicated to the enforcement of intellectual property rights.
- Sec. 308. Training with respect to the enforcement of intellectual property rights.
- Sec. 309. International cooperation and information sharing.
- Sec. 310. Report on intellectual property rights enforcement.
- Sec. 311. Information for travelers regarding violations of intellectual property rights.

## TITLE IV—EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

- Sec. 401. Short title.
- Sec. 402. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
- Sec. 403. Annual report on prevention and investigation of evasion of anti-dumping and countervailing duty orders.

## TITLE V—ADDITIONAL TRADE ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS PROTECTION

Subtitle A—Trade Enforcement

- Sec. 501. Trade enforcement priorities.
- Sec. 502. Exercise of WTO authorization to suspend concessions or other obligations under trade agreements.
- Sec. 503. Trade monitoring.
- Sec. 504. Honey transshipment.
- Sec. 505. Illicitly imported, exported, or trafficked cultural property, archaeological or ethnological materials, and fish, wildlife, and plants.

Subtitle B—Intellectual Property Rights Protection

- Sec. 511. Establishment of Chief Innovation and Intellectual Property Negotiator.
- Sec. 512. Measures relating to countries that deny adequate protection for intellectual property rights.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. De minimis value.
- Sec. 602. Consultation on trade and customs revenue functions.
- Sec. 603. Penalties for customs brokers.
- Sec. 604. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 605. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.
- Sec. 606. Drawback and refunds.
- Sec. 607. Inclusion of certain information in submission of nomination for appointment as Deputy United States Trade Representative.
- Sec. 608. Biennial reports regarding competitiveness issues facing the United States economy and competitive conditions for certain key United States industries.
- Sec. 609. Report on certain U.S. Customs and Border Protection agreements.
- Sec. 610. Charter flights.
- Sec. 611. Amendment to Tariff Act of 1930 to require country of origin marking of certain castings.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

- 3 (1) **AUTOMATED COMMERCIAL ENVIRON-**  
 4 **MENT.**—The term “Automated Commercial Environ-  
 5 ment” means the Automated Commercial Environ-  
 6 ment computer system authorized under section  
 7 13031(f)(4) of the Consolidated Omnibus Budget  
 8 Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)).

1           (2) COMMISSIONER.—The term “Commis-  
2           sioner” means the Commissioner responsible for  
3           U.S. Customs and Border Protection.

4           (3) CUSTOMS AND TRADE LAWS OF THE  
5           UNITED STATES.—The term “customs and trade  
6           laws of the United States” includes the following:

7                   (A) The Tariff Act of 1930 (19 U.S.C.  
8                   1202 et seq.).

9                   (B) Section 249 of the Revised Statutes  
10                  (19 U.S.C. 3).

11                  (C) Section 2 of the Act of March 4, 1923  
12                  (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

13                  (D) The Act of March 3, 1927 (44 Stat.  
14                  1381, chapter 348; 19 U.S.C. 2071 et seq.).

15                  (E) Section 13031 of the Consolidated  
16                  Omnibus Budget Reconciliation Act of 1985  
17                  (19 U.S.C. 58c).

18                  (F) Section 251 of the Revised Statutes  
19                  (19 U.S.C. 66).

20                  (G) Section 1 of the Act of June 26, 1930  
21                  (46 Stat. 817, chapter 617; 19 U.S.C. 68).

22                  (H) The Foreign Trade Zones Act (19  
23                  U.S.C. 81a et seq.).

24                  (I) Section 1 of the Act of March 2, 1911  
25                  (36 Stat. 965, chapter 191; 19 U.S.C. 198).

1           (J) The Trade Act of 1974 (19 U.S.C.  
2           2102 et seq.).

3           (K) The Trade Agreements Act of 1979  
4           (19 U.S.C. 2501 et seq.).

5           (L) The North American Free Trade  
6           Agreement Implementation Act (19 U.S.C.  
7           3301 et seq.).

8           (M) The Uruguay Round Agreements Act  
9           (19 U.S.C. 3501 et seq.).

10          (N) The Caribbean Basin Economic Recov-  
11          ery Act (19 U.S.C. 2701 et seq.).

12          (O) The Andean Trade Preference Act (19  
13          U.S.C. 3201 et seq.).

14          (P) The African Growth and Opportunity  
15          Act (19 U.S.C. 3701 et seq.).

16          (Q) The Customs Enforcement Act of  
17          1986 (Public Law 99-570; 100 Stat. 3207-79).

18          (R) The Customs and Trade Act of 1990  
19          (Public Law 101-382; 104 Stat. 629).

20          (S) The Customs Procedural Reform and  
21          Simplification Act of 1978 (Public Law 95-  
22          410; 92 Stat. 888).

23          (T) The Trade Act of 2002 (Public Law  
24          107-210; 116 Stat. 933).

1 (U) The Convention on Cultural Property  
2 Implementation Act (19 U.S.C. 2601 et seq.).

3 (V) The Act of March 28, 1928 (45 Stat.  
4 374, chapter 266; 19 U.S.C. 2077 et seq.)

5 (W) The Act of August 7, 1939 (53 Stat.  
6 1263, chapter 566).

7 (X) Any other provision of law imple-  
8 menting a trade agreement.

9 (Y) Any other provision of law vesting cus-  
10 toms revenue functions in the Secretary of the  
11 Treasury.

12 (Z) Any other provision of law relating to  
13 trade facilitation or trade enforcement that is  
14 administered by U.S. Customs and Border Pro-  
15 tection on behalf of any Federal agency that is  
16 required to participate in the International  
17 Trade Data System.

18 (AA) Any other provision of customs or  
19 trade law administered by U.S. Customs and  
20 Border Protection or U.S. Immigration and  
21 Customs Enforcement.

22 (4) PRIVATE SECTOR ENTITY.—The term “pri-  
23 vate sector entity” means—

24 (A) an importer;

25 (B) an exporter;

- 1 (C) a forwarder;
- 2 (D) an air, sea, or land carrier or shipper;
- 3 (E) a contract logistics provider;
- 4 (F) a customs broker; or
- 5 (G) any other person (other than an em-
- 6 ployee of a government) affected by the imple-
- 7 mentation of the customs and trade laws of the
- 8 United States.

9 (5) TRADE ENFORCEMENT.—The term “trade

10 enforcement” means the enforcement of the customs

11 and trade laws of the United States.

12 (6) TRADE FACILITATION.—The term “trade

13 facilitation” refers to policies and activities of U.S.

14 Customs and Border Protection with respect to fa-

15 cilitating the movement of merchandise into and out

16 of the United States in a manner that complies with

17 the customs and trade laws of the United States.

18 **TITLE I—TRADE FACILITATION**

19 **AND TRADE ENFORCEMENT**

20 **SEC. 101. IMPROVING PARTNERSHIP PROGRAMS.**

21 (a) IN GENERAL.—In order to advance the security,

22 trade enforcement, and trade facilitation missions of U.S.

23 Customs and Border Protection, the Commissioner shall

24 ensure that partnership programs of U.S. Customs and

25 Border Protection established before the date of the enact-

1 ment of this Act, such as the Customs–Trade Partnership  
2 Against Terrorism established under subtitle B of title II  
3 of the Security and Accountability for Every Port Act of  
4 2006 (6 U.S.C. 961 et seq.), and partnership programs  
5 of U.S. Customs and Border Protection established after  
6 such date of enactment, provide trade benefits to private  
7 sector entities that meet the requirements for participation  
8 in those programs established by the Commissioner under  
9 this section.

10 (b) ELEMENTS.—In developing and operating part-  
11 nership programs under subsection (a), the Commissioner  
12 shall—

13 (1) consult with private sector entities, the pub-  
14 lic, and other Federal agencies when appropriate, to  
15 ensure that participants in those programs receive  
16 commercially significant and measurable trade bene-  
17 fits, including providing pre-clearance of merchan-  
18 dise for qualified persons that demonstrate the high-  
19 est levels of compliance with the customs and trade  
20 laws of the United States, regulations of U.S. Cus-  
21 toms and Border Protection, and other requirements  
22 the Commissioner determines to be necessary;

23 (2) ensure an integrated and transparent sys-  
24 tem of trade benefits and compliance requirements



1 for all partnership programs of U.S. Customs and  
2 Border Protection;

3 (3) consider consolidating partnership programs  
4 in situations in which doing so would support the  
5 objectives of such programs, increase participation in  
6 such programs, enhance the trade benefits provided  
7 to participants in such programs, and enhance the  
8 allocation of the resources of U.S. Customs and Bor-  
9 der Protection;

10 (4) coordinate with the Director of U.S. Immi-  
11 gration and Customs Enforcement, and other Fed-  
12 eral agencies with authority to detain and release  
13 merchandise entering the United States—

14 (A) to ensure coordination in the release of  
15 such merchandise through the Automated Com-  
16 mercial Environment, or its predecessor, and  
17 the International Trade Data System;

18 (B) to ensure that the partnership pro-  
19 grams of those agencies are compatible with the  
20 partnership programs of U.S. Customs and  
21 Border Protection;

22 (C) to develop criteria for authorizing the  
23 release, on an expedited basis, of merchandise  
24 for which documentation is required from one  
25 or more of those agencies to clear or license the

1 merchandise for entry into the United States;  
2 and

3 (D) to create pathways, within and among  
4 the appropriate Federal agencies, for qualified  
5 persons that demonstrate the highest levels of  
6 compliance to receive immediate clearance ab-  
7 sent information that a transaction may pose a  
8 national security or compliance threat; and

9 (5) ensure that trade benefits are provided to  
10 participants in partnership programs.

11 (c) REPORT REQUIRED.—Not later than the date  
12 that is 180 days after the date of the enactment of this  
13 Act, and December 31 of each year thereafter, the Com-  
14 missioner shall submit to the Committee on Finance of  
15 the Senate and the Committee on Ways and Means of the  
16 House of Representatives a report that—

17 (1) identifies each partnership program referred  
18 to in subsection (a);

19 (2) for each such program, identifies—

20 (A) the requirements for participants in  
21 the program;

22 (B) the commercially significant and meas-  
23 urable trade benefits provided to participants in  
24 the program;

1 (C) the number of participants in the pro-  
2 gram; and

3 (D) in the case of a program that provides  
4 for participation at multiple tiers, the number  
5 of participants at each such tier;

6 (3) identifies the number of participants en-  
7 rolled in more than one such partnership program;

8 (4) assesses the effectiveness of each such part-  
9 nership program in advancing the security, trade en-  
10 forcement, and trade facilitation missions of U.S.  
11 Customs and Border Protection, based on historical  
12 developments, the level of participation in the pro-  
13 gram, and the evolution of benefits provided to par-  
14 ticipants in the program;

15 (5) summarizes the efforts of U.S. Customs and  
16 Border Protection to work with other Federal agen-  
17 cies with authority to detain and release merchan-  
18 dise entering the United States to ensure that part-  
19 nership programs of those agencies are compatible  
20 with partnership programs of U.S. Customs and  
21 Border Protection;

22 (6) summarizes criteria developed with those  
23 agencies for authorizing the release, on an expedited  
24 basis, of merchandise for which documentation is re-  
25 quired from one or more of those agencies to clear

1 or license the merchandise for entry into the United  
2 States;

3 (7) summarizes the efforts of U.S. Customs and  
4 Border Protection to work with private sector enti-  
5 ties and the public to develop and improve partner-  
6 ship programs referred to in subsection (a);

7 (8) describes measures taken by U.S. Customs  
8 and Border Protection to make private sector enti-  
9 ties aware of the trade benefits available to partici-  
10 pants in such programs; and

11 (9) summarizes the plans, targets, and goals of  
12 U.S. Customs and Border Protection with respect to  
13 such programs for the 2 years following the submis-  
14 sion of the report.

15 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE EN-**  
16 **FORCEMENT ACTIVITIES.**

17 (a) IN GENERAL.—Not later than one year after the  
18 date of the enactment of this Act, the Comptroller General  
19 of the United States shall submit to the Committee on  
20 Finance of the Senate and the Committee on Ways and  
21 Means of the House of Representatives a report on the  
22 effectiveness of trade enforcement activities of U.S. Cus-  
23 toms and Border Protection.

24 (b) CONTENTS.—The report required by subsection  
25 (a) shall include—

1 (1) a description of the use of resources, results  
2 of audits and verifications, targeting, organization,  
3 and training of personnel of U.S. Customs and Bor-  
4 der Protection; and

5 (2) a description of trade enforcement activities  
6 to address undervaluation, transshipment, legitimacy  
7 of entities making entry, protection of revenues,  
8 fraud prevention and detection, and penalties, in-  
9 cluding intentional misclassification, inadequate  
10 bonding, and other misrepresentations.

11 **SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS**  
12 **FOR CUSTOMS MODERNIZATION, TRADE FA-**  
13 **CILITATION, AND TRADE ENFORCEMENT**  
14 **FUNCTIONS AND PROGRAMS.**

15 (a) PRIORITIES AND PERFORMANCE STANDARDS.—

16 (1) IN GENERAL.—The Commissioner, in con-  
17 sultation with the Committee on Finance of the Sen-  
18 ate and the Committee on Ways and Means of the  
19 House of Representatives, shall establish priorities  
20 and performance standards to measure the develop-  
21 ment and levels of achievement of the customs mod-  
22 ernization, trade facilitation, and trade enforcement  
23 functions and programs described in subsection (b).

24 (2) MINIMUM PRIORITIES AND STANDARDS.—

25 Such priorities and performance standards shall, at

1 a minimum, include priorities and standards relating  
2 to efficiency, outcome, output, and other types of ap-  
3 plicable measures.

4 (b) FUNCTIONS AND PROGRAMS DESCRIBED.—The  
5 functions and programs referred to in subsection (a) are  
6 the following:

7 (1) The Automated Commercial Environment.

8 (2) Each of the priority trade issues described  
9 in paragraph (3)(B)(ii) of section 2(d) of the Act of  
10 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
11 U.S.C. 2072(d)), as added by section 111(a) of this  
12 Act.

13 (3) The Centers of Excellence and Expertise de-  
14 scribed in section 110 of this Act.

15 (4) Drawback for exported merchandise under  
16 section 313 of the Tariff Act of 1930 (19 U.S.C.  
17 1313), as amended by section 606 of this Act.

18 (5) Transactions relating to imported merchan-  
19 dise in bond.

20 (6) Collection of countervailing duties assessed  
21 under subtitle A of title VII of the Tariff Act of  
22 1930 (19 U.S.C. 1671 et seq.) and antidumping du-  
23 ties assessed under subtitle B of title VII of the Tar-  
24 iff Act of 1930 (19 U.S.C. 1673 et seq.).

25 (7) The expedited clearance of cargo.

1 (8) The issuance of regulations and rulings.

2 (9) The issuance of Regulatory Audit Reports.

3 (c) CONSULTATIONS AND NOTIFICATION.—

4 (1) CONSULTATIONS.—The consultations re-  
5 quired by subsection (a)(1) shall occur, at a min-  
6 imum, on an annual basis.

7 (2) NOTIFICATION.—The Commissioner shall  
8 notify the Committee on Finance of the Senate and  
9 the Committee on Ways and Means of the House of  
10 Representatives of any changes to the priorities re-  
11 ferred to in subsection (a) not later than 30 days be-  
12 fore such changes are to take effect.

13 **SEC. 104. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**  
14 **TO CLASSIFY AND APPRAISE IMPORTED AR-**  
15 **TICLES, TO IMPROVE TRADE ENFORCEMENT**  
16 **EFFORTS, AND TO OTHERWISE FACILITATE**  
17 **LEGITIMATE INTERNATIONAL TRADE.**

18 (a) IN GENERAL.—

19 (1) ESTABLISHMENT.—The Commissioner and  
20 the Director shall establish and carry out on a fiscal  
21 year basis educational seminars to—

22 (A) improve the ability of U.S. Customs  
23 and Border Protection personnel to classify and  
24 appraise articles imported into the United

1 States in accordance with the customs and  
2 trade laws of the United States;

3 (B) improve the trade enforcement efforts  
4 of U.S. Customs and Border Protection per-  
5 sonnel and U.S. Immigration and Customs En-  
6 forcement personnel; and

7 (C) otherwise improve the ability and effec-  
8 tiveness of U.S. Customs and Border Protection  
9 personnel and U.S. Immigration and Customs  
10 Enforcement personnel to facilitate legitimate  
11 international trade.

12 (b) CONTENT.—

13 (1) CLASSIFYING AND APPRAISING IMPORTED  
14 ARTICLES.—In carrying out subsection (a)(1)(A),  
15 the Commissioner, the Director, and interested par-  
16 ties in the private sector selected under subsection  
17 (c) shall provide instruction and related instructional  
18 materials at each educational seminar under this  
19 section to U.S. Customs and Border Protection per-  
20 sonnel and, as appropriate, to U.S. Immigration and  
21 Customs Enforcement personnel on the following:

22 (A) Conducting a physical inspection of an  
23 article imported into the United States, includ-  
24 ing testing of samples of the article, to deter-



1 mine if the article is mislabeled in the manifest  
2 or other accompanying documentation.

3 (B) Reviewing the manifest and other ac-  
4 companying documentation of an article im-  
5 ported into the United States to determine if  
6 the country of origin of the article listed in the  
7 manifest or other accompanying documentation  
8 is accurate.

9 (C) Customs valuation.

10 (D) Industry supply chains and other re-  
11 lated matters as determined to be appropriate  
12 by the Commissioner.

13 (2) TRADE ENFORCEMENT EFFORTS.—In car-  
14 rying out subsection (a)(1)(B), the Commissioner,  
15 the Director, and interested parties in the private  
16 sector selected under subsection (c) shall provide in-  
17 struction and related instructional materials at each  
18 educational seminar under this section to U.S. Cus-  
19 toms and Border Protection personnel and, as ap-  
20 propriate, to U.S. Immigration and Customs En-  
21 forcement personnel to identify opportunities to en-  
22 hance enforcement of the following:

23 (A) Collection of countervailing duties as-  
24 sessed under subtitle A of title VII of the Tariff  
25 Act of 1930 (19 U.S.C. 1671 et seq.) and anti-



1 (B) the volume, value, and incidence of  
2 mislabeling or misidentification of origin of im-  
3 ported articles; and

4 (C) other appropriate criteria established  
5 by the Commissioner.

6 (3) PUBLIC AVAILABILITY.—The Commissioner  
7 and the Director shall publish in the Federal Reg-  
8 ister a detailed description of the process established  
9 under paragraph (1) and the criteria established  
10 under paragraph (2).

11 (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-  
12 TERVERAILING DUTY ORDERS.—

13 (1) IN GENERAL.—The Commissioner shall give  
14 due consideration to carrying out an educational  
15 seminar under this section in whole or in part to im-  
16 prove the ability of U.S. Customs and Border Pro-  
17 tection personnel to enforce a countervailing or anti-  
18 dumping duty order issued under section 706 or 736  
19 of the Tariff Act of 1930 (19 U.S.C. 1671e or  
20 1673e) upon the request of a petitioner in an action  
21 underlying such countervailing or antidumping duty  
22 order.

23 (2) INTERESTED PARTY.—A petitioner de-  
24 scribed in paragraph (1) shall be treated as an inter-

1       ested party in the private sector for purposes of the  
2       requirements of this section.

3       (e) PERFORMANCE STANDARDS.—The Commissioner  
4       and the Director shall establish performance standards to  
5       measure the development and level of achievement of edu-  
6       cational seminars under this section.

7       (f) REPORTING.—Beginning September 30, 2016, the  
8       Commissioner and the Director shall submit to the Com-  
9       mittee of Finance of the Senate and the Committee of  
10      Ways and Means of the House of Representatives an an-  
11      nual report on the effectiveness of educational seminars  
12      under this section.

13      (g) DEFINITIONS.—In this section:

14           (1) DIRECTOR.—The term “Director” means  
15      the Director of U.S. Immigration and Customs En-  
16      forcement.

17           (2) UNITED STATES.—The term “United  
18      States” means the customs territory of the United  
19      States, as defined in General Note 2 to the Har-  
20      monized Tariff Schedule of the United States.

21           (3) U.S. CUSTOMS AND BORDER PROTECTION  
22      PERSONNEL.—The term “U.S. Customs and Border  
23      Protection personnel” means import specialists,  
24      auditors, and other appropriate employees of the  
25      U.S. Customs and Border Protection.

1           (4) U.S. IMMIGRATION AND CUSTOMS ENFORCE-  
2           MENT PERSONNEL.—The term “U.S. Immigrations  
3           and Customs Enforcement personnel” means Home-  
4           land Security Investigations Directorate personnel  
5           and other appropriate employees of U.S. Immigra-  
6           tions and Customs Enforcement.

7   **SEC. 105. JOINT STRATEGIC PLAN.**

8           (a) IN GENERAL.—Not later than one year after the  
9           date of the enactment of this Act, and every 2 years there-  
10          after, the Commissioner and the Director of U.S. Immi-  
11          gration and Customs Enforcement shall jointly develop  
12          and submit to the Committee on Finance of the Senate  
13          and the Committee on Ways and Means of the House of  
14          Representatives, a joint strategic plan.

15          (b) CONTENTS.—The joint strategic plan required  
16          under this section shall be comprised of a comprehensive  
17          multi-year plan for trade enforcement and trade facilita-  
18          tion, and shall include—

19                (1) a summary of actions taken during the 2-  
20                year period preceding the submission of the plan to  
21                improve trade enforcement and trade facilitation, in-  
22                cluding a description and analysis of specific per-  
23                formance measures to evaluate the progress of U.S.  
24                Customs and Border Protection and U.S. Immigra-

1       tion and Customs Enforcement in meeting each such  
2       responsibility;

3               (2) a statement of objectives and plans for fur-  
4       ther improving trade enforcement and trade facilita-  
5       tion;

6               (3) a specific identification of the priority trade  
7       issues described in paragraph (3)(B)(ii) of section  
8       2(d) of the Act of March 3, 1927 (44 Stat. 1381,  
9       chapter 348; 19 U.S.C. 2072(d)), as added by sec-  
10      tion 111(a) of this Act, that can be addressed in  
11      order to enhance trade enforcement and trade facili-  
12      tation, and a description of strategies and plans for  
13      addressing each such issue;

14              (4) a description of efforts made to improve  
15      consultation and coordination among and within  
16      Federal agencies, and in particular between U.S.  
17      Customs and Border Protection and U.S. Immigra-  
18      tion and Customs Enforcement, regarding trade en-  
19      forcement and trade facilitation;

20              (5) a description of the training that has oc-  
21      curred to date within U.S. Customs and Border Pro-  
22      tection and U.S. Immigration and Customs Enforce-  
23      ment to improve trade enforcement and trade facili-  
24      tation, including training under section 104 of this  
25      Act;

1           (6) a description of efforts to work with the  
2 World Customs Organization and other international  
3 organizations, in consultation with other Federal  
4 agencies as appropriate, with respect to enhancing  
5 trade enforcement and trade facilitation;

6           (7) a description of U.S. Custom and Border  
7 Protection organizational benchmarks for optimizing  
8 staffing and wait times at ports of entry;

9           (8) a specific identification of any domestic or  
10 international best practices that may further im-  
11 prove trade enforcement and trade facilitation;

12           (9) any legislative recommendations to further  
13 improve trade enforcement and trade facilitation;  
14 and

15           (10) a description of efforts made to improve  
16 consultation and coordination with the private sector  
17 to enhance trade enforcement and trade facilitation.

18 (c) CONSULTATIONS.—

19           (1) IN GENERAL.—In developing the joint stra-  
20 tegic plan required under this section, the Commis-  
21 sioner and the Director shall consult with—

22           (A) appropriate officials from the relevant  
23 Federal agencies, including—

24                   (i) the Department of the Treasury;

25                   (ii) the Department of Agriculture;

- 1 (iii) the Department of Commerce;  
2 (iv) the Department of Justice;  
3 (v) the Department of the Interior;  
4 (vi) the Department of Health and  
5 Human Services;  
6 (vii) the Food and Drug Administra-  
7 tion;  
8 (viii) the Consumer Product Safety  
9 Commission; and  
10 (ix) the Office of the United States  
11 Trade Representative; and  
12 (B) the Commercial Customs Operations  
13 Advisory Committee established by section 109  
14 of this Act.
- 15 (2) OTHER CONSULTATIONS.—In developing  
16 the joint strategic plan required under this section,  
17 the Commissioner and the Director shall seek to  
18 consult with—
- 19 (A) appropriate officials from relevant for-  
20 eign law enforcement agencies and international  
21 organizations, including the World Customs Or-  
22 ganization; and  
23 (B) interested parties in the private sector.



1 **SEC. 106. AUTOMATED COMMERCIAL ENVIRONMENT.**

2 (a) FUNDING.—Section 13031(f)(4)(B) of the Con-  
3 solidated Omnibus Budget Reconciliation Act of 1985 (19  
4 U.S.C. 58c(f)(4)(B)) is amended—

5 (1) by striking “2003 through 2005” and in-  
6 serting “2016 through 2018”;

7 (2) by striking “such amounts as are available  
8 in that Account” and inserting “not less than  
9 \$153,736,000”; and

10 (3) by striking “for the development” and in-  
11 serting “to complete the development and implemen-  
12 tation”.

13 (b) REPORT.—Section 311(b)(3) of the Customs Bor-  
14 der Security Act of 2002 (19 U.S.C. 2075 note) is amend-  
15 ed to read as follows:

16 “(3) REPORT.—

17 “(A) IN GENERAL.—Not later than De-  
18 cember 31, 2016, the Commissioner responsible  
19 for U.S. Customs and Border Protection shall  
20 submit to the Committee on Appropriations and  
21 the Committee on Finance of the Senate and  
22 the Committee on Appropriations and the Com-  
23 mittee on Ways and Means of the House of  
24 Representatives a report detailing—

25 “(i) U.S. Customs and Border Protec-  
26 tion’s incorporation of all core trade proc-

1           essing capabilities, including cargo release,  
2           entry summary, cargo manifest, cargo fi-  
3           nancial data, and export data elements  
4           into the Automated Commercial Environ-  
5           ment computer system authorized under  
6           section 13031(f)(4) of the Consolidated  
7           Omnibus Budget and Reconciliation Act of  
8           1985 (19 U.S.C. 58c(f)(4)) not later than  
9           September 30, 2016, to conform with the  
10          admissibility criteria of agencies partici-  
11          pating in the International Trade Data  
12          System identified pursuant to section  
13          411(d)(4)(A)(iii) of the Tariff Act of 1930;

14                 “(ii) U.S. Customs and Border Pro-  
15          tection’s remaining priorities for processing  
16          entry summary data elements, cargo mani-  
17          fest data elements, cargo financial data  
18          elements, and export elements in the Auto-  
19          mated Commercial Environment computer  
20          system, and the objectives and plans for  
21          implementing these remaining priorities;

22                 “(iii) the components of the National  
23          Customs Automation Program specified in  
24          subsection (a)(2) of section 411 of the

1 Tariff Act of 1930 that have not been im-  
2 plemented; and

3 “(iv) any additional components of the  
4 National Customs Automation Program  
5 initiated by the Commissioner to complete  
6 the development, establishment, and imple-  
7 mentation of the Automated Commercial  
8 Environment computer system.

9 “(B) UPDATE OF REPORTS.—Not later  
10 than September 30, 2017, the Commissioner  
11 shall submit to the Committee on Appropria-  
12 tions and the Committee on Finance of the  
13 Senate and the Committee on Appropriations  
14 and the Committee on Ways and Means of the  
15 House of Representatives an updated report ad-  
16 dressing each of the matters referred to in sub-  
17 paragraph (A), and—

18 “(i) evaluating the effectiveness of the  
19 implementation of the Automated Commer-  
20 cial Environment computer system; and

21 “(ii) detailing the percentage of trade  
22 processed in the Automated Commercial  
23 Environment every month since September  
24 30, 2016.”.

1 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
2 PORT.—Not later than December 31, 2017, the Comp-  
3 troller General of the United States shall submit to the  
4 Committee on Appropriations and the Committee on Fi-  
5 nance of the Senate and the Committee on Appropriations  
6 and the Committee on Ways and Means of the House of  
7 Representatives a report—

8 (1) assessing the progress of other Federal  
9 agencies in accessing and utilizing the Automated  
10 Commercial Environment; and

11 (2) assessing the potential cost savings to the  
12 United States Government and importers and ex-  
13 porters and the potential benefits to enforcement of  
14 the customs and trade laws of the United States if  
15 the elements identified in clauses (i) through (iv) of  
16 section 311(b)(3)(A) of the Customs Border Secu-  
17 rity Act of 2002, as amended by subsection (b) of  
18 this section, are implemented.

19 **SEC. 107. INTERNATIONAL TRADE DATA SYSTEM.**

20 (a) INFORMATION TECHNOLOGY INFRASTRUC-  
21 TURE.—Section 411(d) of the Tariff Act of 1930 (19  
22 U.S.C. 1411(d)) is amended—

23 (1) by redesignating paragraphs (4) through  
24 (7) as paragraphs (5) through (8), respectively;



1 to authorize the release of cargo by U.S.  
2 Customs and Border Protection for incor-  
3 poration into the operational functionality  
4 of the Automated Commercial Environ-  
5 ment computer system authorized under  
6 section 13031(f)(4) of the Consolidated  
7 Omnibus Budget and Reconciliation Act of  
8 1985 (19 U.S.C. 58c(f)(4)); and

9 “(iv) not later than December 31,  
10 2016, utilizes the ITDS as the primary  
11 means of receiving from users the standard  
12 set of data and other relevant documenta-  
13 tion, exclusive of applications for permits,  
14 licenses, or certifications required for the  
15 release of imported cargo and clearance of  
16 cargo for export.

17 “(B) RULE OF CONSTRUCTION.—Nothing  
18 in this paragraph shall be construed to require  
19 any action to be taken that would compromise  
20 an ongoing law enforcement investigation or na-  
21 tional security.”; and

22 (3) in paragraph (8), as redesignated, by strik-  
23 ing “section 9503(c) of the Omnibus Budget Rec-  
24 onciliation Act of 1987 (19 U.S.C. 2071 note)” and

1       inserting “section 109 of the Trade Facilitation and  
2       Trade Enforcement Act of 2015”.

3 **SEC. 108. CONSULTATIONS WITH RESPECT TO MUTUAL**  
4                                   **RECOGNITION ARRANGEMENTS.**

5       (a) CONSULTATIONS.—The Secretary of Homeland  
6 Security, with respect to any proposed mutual recognition  
7 arrangement or similar agreement between the United  
8 States and a foreign government providing for mutual rec-  
9 ognition of supply chain security programs and customs  
10 revenue functions, shall consult—

11               (1) not later than 30 days before initiating ne-  
12 negotiations to enter into any such arrangement or  
13 similar agreement, with the Committee on Finance  
14 of the Senate and the Committee on Ways and  
15 Means of the House of Representatives; and

16               (2) not later than 30 days before entering into  
17 any such arrangement or similar agreement, with  
18 the Committee on Finance of the Senate and the  
19 Committee on Ways and Means of the House of  
20 Representatives.

21       (b) NEGOTIATING OBJECTIVE.—It shall be a negoti-  
22 ating objective of the United States in any negotiation for  
23 a mutual recognition arrangement with a foreign country  
24 on partnership programs, such as the Customs-Trade  
25 Partnership Against Terrorism established under subtitle

1 B of title II of the Security and Accountability for Every  
2 Port Act of 2006 (6 U.S.C. 961 et seq.), to seek to ensure  
3 the compatibility of the partnership programs of that  
4 country with the partnership programs of U.S. Customs  
5 and Border Protection to enhance trade facilitation and  
6 trade enforcement.

7 **SEC. 109. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**  
8 **COMMITTEE.**

9 (a) ESTABLISHMENT.—Not later than the date that  
10 is 60 days after the date of the enactment of this Act,  
11 the Secretary of the Treasury and the Secretary of Home-  
12 land Security shall jointly establish a Commercial Customs  
13 Operations Advisory Committee (in this section referred  
14 to as the “Advisory Committee”).

15 (b) MEMBERSHIP.—

16 (1) IN GENERAL.—The Advisory Committee  
17 shall be comprised of—

18 (A) 20 individuals appointed under para-  
19 graph (2);

20 (B) the Assistant Secretary for Tax Policy  
21 of the Department of the Treasury and the  
22 Commissioner, who shall jointly co-chair meet-  
23 ings of the Advisory Committee; and

24 (C) the Assistant Secretary for Policy and  
25 the Director of U.S. Immigration and Customs



1 Enforcement of the Department of Homeland  
2 Security, who shall serve as deputy co-chairs of  
3 meetings of the Advisory Committee.

4 (2) APPOINTMENT.—

5 (A) IN GENERAL.—The Secretary of the  
6 Treasury and the Secretary of Homeland Secu-  
7 rity shall jointly appoint 20 individuals from  
8 the private sector to the Advisory Committee.

9 (B) REQUIREMENTS.—In making appoint-  
10 ments under subparagraph (A), the Secretary  
11 of the Treasury and the Secretary of Homeland  
12 Security shall appoint members—

13 (i) to ensure that the membership of  
14 the Advisory Committee is representative  
15 of the individuals and firms affected by the  
16 commercial operations of U.S. Customs  
17 and Border Protection; and

18 (ii) without regard to political affili-  
19 ation.

20 (C) TERMS.—Each individual appointed to  
21 the Advisory Committee under this paragraph  
22 shall be appointed for a term of not more than  
23 3 years, and may be reappointed to subsequent  
24 terms, but may not serve more than 2 terms se-  
25 quentially.

1           (3) TRANSFER OF MEMBERSHIP.—The Sec-  
2           retary of the Treasury and the Secretary of Home-  
3           land Security may transfer members serving on the  
4           Advisory Committee on Commercial Operations of  
5           the United States Customs Service established under  
6           section 9503(c) of the Omnibus Budget Reconcili-  
7           ation Act of 1987 (19 U.S.C. 2071 note) on the day  
8           before the date of the enactment of this Act to the  
9           Advisory Committee established under subsection  
10          (a).

11          (c) DUTIES.—The Advisory Committee established  
12          under subsection (a) shall—

13               (1) advise the Secretary of the Treasury and  
14               the Secretary of Homeland Security on all matters  
15               involving the commercial operations of U.S. Customs  
16               and Border Protection, including advising with re-  
17               spect to significant changes that are proposed with  
18               respect to regulations, policies, or practices of U.S.  
19               Customs and Border Protection;

20               (2) provide recommendations to the Secretary  
21               of the Treasury and the Secretary of Homeland Se-  
22               curity on improvements to the commercial operations  
23               of U.S. Customs and Border Protection;

24               (3) collaborate in developing the agenda for Ad-  
25               visory Committee meetings; and

1           (4) perform such other functions relating to the  
2 commercial operations of U.S. Customs and Border  
3 Protection as prescribed by law or as the Secretary  
4 of the Treasury and the Secretary of Homeland Se-  
5 curity jointly direct.

6           (d) MEETINGS.—

7           (1) IN GENERAL.—The Advisory Committee  
8 shall meet at the call of the Secretary of the Treas-  
9 ury and the Secretary of Homeland Security, or at  
10 the call of not less than  $\frac{2}{3}$  of the membership of the  
11 Advisory Committee. The Advisory Committee shall  
12 meet at least 4 times each calendar year.

13           (2) OPEN MEETINGS.—Notwithstanding section  
14 10(a) of the Federal Advisory Committee Act (5  
15 U.S.C. App.), the Advisory Committee meetings  
16 shall be open to the public unless the Secretary of  
17 the Treasury or the Secretary of Homeland Security  
18 determines that the meeting will include matters the  
19 disclosure of which would compromise the develop-  
20 ment of policies, priorities, or negotiating objectives  
21 or positions that could impact the commercial oper-  
22 ations of U.S. Customs and Border Protection or  
23 the operations or investigations of U.S. Immigration  
24 and Customs Enforcement.

1 (e) ANNUAL REPORT.—Not later than December 31,  
2 2016, and annually thereafter, the Advisory Committee  
3 shall submit to the Committee on Finance of the Senate  
4 and the Committee on Ways and Means of the House of  
5 Representatives a report that—

6 (1) describes the activities of the Advisory Com-  
7 mittee during the preceding fiscal year; and

8 (2) sets forth any recommendations of the Advi-  
9 sory Committee regarding the commercial operations  
10 of U.S. Customs and Border Protection.

11 (f) TERMINATION.—Section 14(a)(2) of the Federal  
12 Advisory Committee Act (5 U.S.C. App.; relating to the  
13 termination of advisory committees) shall not apply to the  
14 Advisory Committee.

15 (g) CONFORMING AMENDMENT.—

16 (1) IN GENERAL.—Effective on the date on  
17 which the Advisory Committee is established under  
18 subsection (a), section 9503(c) of the Omnibus  
19 Budget Reconciliation Act of 1987 (19 U.S.C. 2071  
20 note) is repealed.

21 (2) REFERENCE.—Any reference in law to the  
22 Advisory Committee on Commercial Operations of  
23 the United States Customs Service established under  
24 section 9503(c) of the Omnibus Budget Reconcili-  
25 ation Act of 1987 (19 U.S.C. 2071 note) made on

1 or after the date on which the Advisory Committee  
2 is established under subsection (a), shall be deemed  
3 a reference to the Commercial Customs Operations  
4 Advisory Committee established under subsection  
5 (a).

6 **SEC. 110. CENTERS OF EXCELLENCE AND EXPERTISE.**

7 (a) IN GENERAL.—The Commissioner shall, in con-  
8 sultation with the Committee on Finance of the Senate,  
9 the Committee on Ways and Means of the House of Rep-  
10 resentatives, and the Commercial Customs Operations Ad-  
11 visory Committee established by section 109 of this Act,  
12 develop and implement Centers of Excellence and Exper-  
13 tise throughout U.S. Customs and Border Protection  
14 that—

15 (1) enhance the economic competitiveness of the  
16 United States by consistently enforcing the laws and  
17 regulations of the United States at all ports of entry  
18 of the United States and by facilitating the flow of  
19 legitimate trade through increasing industry-based  
20 knowledge;

21 (2) improve enforcement efforts, including en-  
22 forcement of priority trade issues described in sub-  
23 paragraph (B)(ii) of section 2(d)(3) of the Act of  
24 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
25 U.S.C. 2072(d)), as added by section 111(a) of this

1 Act, in specific industry sectors through the applica-  
2 tion of targeting information from the Commercial  
3 Targeting Division established under subparagraph  
4 (A) of such section 2(d)(3) and from other means of  
5 verification;

6 (3) build upon the expertise of U.S. Customs  
7 and Border Protection in particular industry oper-  
8 ations, supply chains, and compliance requirements;

9 (4) promote the uniform implementation at  
10 each port of entry of the United States of policies  
11 and regulations relating to imports;

12 (5) centralize the trade enforcement and trade  
13 facilitation efforts of U.S. Customs and Border Pro-  
14 tection;

15 (6) formalize an account-based approach to  
16 apply, as the Commissioner determines appropriate,  
17 to the importation of merchandise into the United  
18 States;

19 (7) foster partnerships through the expansion of  
20 trade programs and other trusted partner programs;

21 (8) develop applicable performance measure-  
22 ments to meet internal efficiency and effectiveness  
23 goals; and

24 (9) whenever feasible, facilitate a more efficient  
25 flow of information between Federal agencies.

1 (b) REPORT.—Not later than December 31, 2016,  
2 the Commissioner shall submit to the Committee on Fi-  
3 nance of the Senate and the Committee on Ways and  
4 Means of the House of Representatives a report describ-  
5 ing—

6 (1) the scope, functions, and structure of each  
7 Center of Excellence and Expertise developed and  
8 implemented under subsection (a);

9 (2) the effectiveness of each such Center of Ex-  
10 cellence and Expertise in improving enforcement ef-  
11 forts, including enforcement of priority trade issues,  
12 and facilitating legitimate trade;

13 (3) the quantitative and qualitative benefits of  
14 each such Center of Excellence and Expertise to the  
15 trade community, including through fostering part-  
16 nerships through the expansion of trade programs  
17 such as the Importer Self Assessment program and  
18 other trusted partner programs;

19 (4) all applicable performance measurements  
20 with respect to each such Center of Excellence and  
21 Expertise, including performance measures with re-  
22 spect to meeting internal efficiency and effectiveness  
23 goals;

24 (5) the performance of each such Center of Ex-  
25 cellence and Expertise in increasing the accuracy

1 and completeness of data with respect to inter-  
2 national trade and facilitating a more efficient flow  
3 of information between Federal agencies; and

4 (6) any planned changes in the number, scope,  
5 functions or any other aspect of the Centers of Ex-  
6 cellence and Expertise developed and implemented  
7 under subsection (a).

8 **SEC. 111. COMMERCIAL TARGETING DIVISION AND NA-**  
9 **TIONAL TARGETING AND ANALYSIS GROUPS.**

10 (a) IN GENERAL.—Section 2(d) of the Act of March  
11 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d))  
12 is amended by adding at the end the following:

13 “(3) COMMERCIAL TARGETING DIVISION AND  
14 NATIONAL TARGETING AND ANALYSIS GROUPS.—

15 “(A) ESTABLISHMENT OF COMMERCIAL  
16 TARGETING DIVISION.—

17 “(i) IN GENERAL.—The Secretary of  
18 Homeland Security shall establish and  
19 maintain within the Office of International  
20 Trade a Commercial Targeting Division.

21 “(ii) COMPOSITION.—The Commercial  
22 Targeting Division shall be composed of—

23 “(I) headquarters personnel led  
24 by an Executive Director, who shall



1 report to the Assistant Commissioner  
2 for Trade; and

3 “(II) individual National Tar-  
4 geting and Analysis Groups, each led  
5 by a Director who shall report to the  
6 Executive Director of the Commercial  
7 Targeting Division.

8 “(iii) DUTIES.—The Commercial Tar-  
9 geting Division shall be dedicated—

10 “(I) to the development and con-  
11 duct of commercial risk assessment  
12 targeting with respect to cargo des-  
13 tined for the United States in accord-  
14 ance with subparagraph (C); and

15 “(II) to issuing Trade Alerts de-  
16 scribed in subparagraph (D).

17 “(B) NATIONAL TARGETING AND ANALYSIS  
18 GROUPS.—

19 “(i) IN GENERAL.—A National Tar-  
20 geting and Analysis Group referred to in  
21 subparagraph (A)(ii)(II) shall, at a min-  
22 imum, be established for each priority  
23 trade issue described in clause (ii).

24 “(ii) PRIORITY TRADE ISSUES.—

1                   “(I) IN GENERAL.—The priority  
2 trade issues described in this clause  
3 are the following:

4                   “(aa) Agriculture programs.

5                   “(bb) Antidumping and  
6 countervailing duties.

7                   “(cc) Import safety.

8                   “(dd) Intellectual property  
9 rights.

10                  “(ee) Revenue.

11                  “(ff) Textiles and wearing  
12 apparel.

13                  “(gg) Trade agreements and  
14 preference programs.

15                  “(II) MODIFICATION.—The Com-  
16 missioner is authorized to establish  
17 new priority trade issues and elimi-  
18 nate, consolidate, or otherwise modify  
19 the priority trade issues described in  
20 this paragraph if the Commissioner—

21                  “(aa) determines it nec-  
22 essary and appropriate to do so;

23                  “(bb) submits to the Com-  
24 mittee on Finance of the Senate  
25 and the Committee on Ways and

1 Means of the House of Rep-  
2 resentatives a summary of pro-  
3 posals to consolidate, eliminate,  
4 or otherwise modify existing pri-  
5 ority trade issues not later than  
6 60 days before such changes are  
7 to take effect; and

8 “(cc) submits to the Com-  
9 mittee on Finance of the Senate  
10 and the Committee on Ways and  
11 Means of the House of Rep-  
12 resentatives a summary of pro-  
13 posals to establish new priority  
14 trade issues not later than 30  
15 days after such changes are to  
16 take effect.

17 “(iii) DUTIES.—The duties of each  
18 National Targeting and Analysis Group  
19 shall include—

20 “(I) directing the trade enforce-  
21 ment and compliance assessment ac-  
22 tivities of U.S. Customs and Border  
23 Protection that relate to the Group’s  
24 priority trade issue;

1                   “(II) facilitating, promoting, and  
2                   coordinating cooperation and the ex-  
3                   change of information between U.S.  
4                   Customs and Border Protection, U.S.  
5                   Immigration and Customs Enforce-  
6                   ment, and other relevant Federal de-  
7                   partments and agencies regarding the  
8                   Group’s priority trade issue; and

9                   “(III) serving as the primary liai-  
10                  son between U.S. Customs and Bor-  
11                  der Protection and the public regard-  
12                  ing United States Government activi-  
13                  ties regarding the Group’s priority  
14                  trade issue, including—

15                       “(aa) providing for receipt  
16                       and transmission to the appro-  
17                       priate U.S. Customs and Border  
18                       Protection office of allegations  
19                       from interested parties in the pri-  
20                       vate sector of violations of cus-  
21                       toms and trade laws of the  
22                       United States of merchandise re-  
23                       lating to the priority trade issue;

24                       “(bb) obtaining information  
25                       from the appropriate U.S. Cus-

1                   toms and Border Protection of-  
2                   fice on the status of any activi-  
3                   ties resulting from the submis-  
4                   sion of any such allegation, in-  
5                   cluding any decision not to pur-  
6                   sue the allegation, and providing  
7                   any such information to each in-  
8                   terested party in the private sec-  
9                   tor that submitted the allegation  
10                  every 90 days after the allegation  
11                  was received by U.S. Customs  
12                  and Border Protection unless  
13                  providing such information would  
14                  compromise an ongoing law en-  
15                  forcement investigation; and

16                         “(cc) notifying on a timely  
17                         basis each interested party in the  
18                         private sector that submitted  
19                         such allegation of any civil or  
20                         criminal actions taken by U.S.  
21                         Customs and Border Protection  
22                         or other Federal department or  
23                         agency resulting from the allega-  
24                         tion.

1                   “(C) COMMERCIAL RISK ASSESSMENT TAR-  
2                   GETING.—In carrying out its duties with re-  
3                   spect to commercial risk assessment targeting,  
4                   the Commercial Targeting Division shall—

5                   “(i) establish targeted risk assessment  
6                   methodologies and standards—

7                   “(I) for evaluating the risk that  
8                   cargo destined for the United States  
9                   may violate the customs and trade  
10                  laws of the United States, particularly  
11                  those laws applicable to merchandise  
12                  subject to the priority trade issues de-  
13                  scribed in subparagraph (B)(ii); and

14                  “(II) for issuing, as appropriate,  
15                  Trade Alerts described in subpara-  
16                  graph (D); and

17                  “(ii) to the extent practicable and oth-  
18                  erwise authorized by law, use, to admin-  
19                  ister the methodologies and standards es-  
20                  tablished under clause (i) —

21                  “(I) publicly available informa-  
22                  tion;

23                  “(II) information available from  
24                  the Automated Commercial System,  
25                  the Automated Commercial Environ-

1                   ment computer system, the Auto-  
2                   mated Targeting System, the Auto-  
3                   mated Export System, the Inter-  
4                   national Trade Data System, the  
5                   TECS (formerly known as the ‘Treas-  
6                   ury Enforcement Communications  
7                   System’), the case management sys-  
8                   tem of U.S. Immigration and Customs  
9                   Enforcement, and any successor sys-  
10                  tems; and

11                               “(III) information made available  
12                               to the Commercial Targeting Division,  
13                               including information provided by pri-  
14                               vate sector entities.

15                   “(D) TRADE ALERTS.—

16                               “(i) ISSUANCE.—Based upon the ap-  
17                               plication of the targeted risk assessment  
18                               methodologies and standards established  
19                               under subparagraph (C), the Executive Di-  
20                               rector of the Commercial Targeting Divi-  
21                               sion and the Directors of the National  
22                               Targeting and Analysis Groups may issue  
23                               Trade Alerts to directors of United States  
24                               ports of entry directing further inspection,  
25                               or physical examination or testing, of spe-

1 cific merchandise to ensure compliance  
2 with all applicable customs and trade laws  
3 and regulations administered by U.S. Cus-  
4 toms and Border Protection.

5 “(ii) DETERMINATIONS NOT TO IM-  
6 PLEMENT TRADE ALERTS.—The director  
7 of a United States port of entry may deter-  
8 mine not to conduct further inspections, or  
9 physical examination or testing, pursuant  
10 to a Trade Alert issued under clause (i)  
11 if—

12 “(I) the director finds that such  
13 a determination is justified by security  
14 interests; and

15 “(II) notifies the Assistant Com-  
16 missioner of the Office of Field Oper-  
17 ations and the Assistant Commis-  
18 sioner of International Trade of U.S.  
19 Customs and Border Protection of the  
20 determination and the reasons for the  
21 determination not later than 48 hours  
22 after making the determination.

23 “(iii) SUMMARY OF DETERMINATIONS  
24 NOT TO IMPLEMENT.—The Assistant Com-  
25 missioner of the Office of Field Operations



1 of U.S. Customs and Border Protection  
2 shall—

3 “(I) compile an annual public  
4 summary of all determinations by di-  
5 rectors of United States ports of entry  
6 under clause (ii) and the reasons for  
7 those determinations;

8 “(II) conduct an evaluation of  
9 the utilization of Trade Alerts issued  
10 under clause (i); and

11 “(III) submit the summary to the  
12 Committee on Finance of the Senate  
13 and the Committee on Ways and  
14 Means of the House of Representa-  
15 tives not later than December 31 of  
16 each year.

17 “(iv) INSPECTION DEFINED.—In this  
18 subparagraph, the term ‘inspection’ means  
19 the comprehensive evaluation process used  
20 by U.S. Customs and Border Protection,  
21 other than physical examination or testing,  
22 to permit the entry of merchandise into the  
23 United States, or the clearance of mer-  
24 chandise for transportation in bond

1 through the United States, for purposes  
2 of—

3 “(I) assessing duties;

4 “(II) identifying restricted or  
5 prohibited items; and

6 “(III) ensuring compliance with  
7 all applicable customs and trade laws  
8 and regulations administered by U.S.  
9 Customs and Border Protection.”.

10 (b) USE OF TRADE DATA FOR COMMERCIAL EN-  
11 FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the  
12 Trade Act of 2002 (19 U.S.C. 2071 note) is amended to  
13 read as follows:

14 “(F) The information collected pursuant to  
15 the regulations shall be used exclusively for en-  
16 suring cargo safety and security, preventing  
17 smuggling, and commercial risk assessment tar-  
18 geting, and shall not be used for any commer-  
19 cial enforcement purposes, including for deter-  
20 mining merchandise entry. Notwithstanding the  
21 preceding sentence, nothing in this section shall  
22 be treated as amending, repealing, or otherwise  
23 modifying title IV of the Tariff Act of 1930 or  
24 regulations prescribed thereunder.”.

1 **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
2 **TION AND ENFORCEMENT MEASURES.**

3 (a) IN GENERAL.—Not later the March 31, 2016,  
4 and not later than March 31 of each second year there-  
5 after, the Inspector General of the Department of the  
6 Treasury shall submit to the Committee on Finance of the  
7 Senate and the Committee on Ways and Means of the  
8 House of Representatives a report assessing, with respect  
9 to the period covered by the report, as specified in sub-  
10 section (b), the following:

11 (1) The effectiveness of the measures taken by  
12 U.S. Customs and Border Protection with respect to  
13 protection of revenue, including—

14 (A) the collection of countervailing duties  
15 assessed under subtitle A of title VII of the  
16 Tariff Act of 1930 (19 U.S.C. 1671 et seq.)  
17 and antidumping duties assessed under subtitle  
18 B of title VII of the Tariff Act of 1930 (19  
19 U.S.C. 1673 et seq.);

20 (B) the assessment, collection, and mitiga-  
21 tion of commercial fines and penalties;

22 (C) the use of bonds, including continuous  
23 and single transaction bonds, to secure that  
24 revenue; and

25 (D) the adequacy of the policies of U.S.  
26 Customs and Border Protection with respect to

1 the monitoring and tracking of merchandise  
2 transported in bond and collecting duties, as  
3 appropriate.

4 (2) The effectiveness of actions taken by U.S.  
5 Customs and Border Protection to measure account-  
6 ability and performance with respect to protection of  
7 revenue.

8 (3) The number and outcome of investigations  
9 instituted by U.S. Customs and Border Protection  
10 with respect to the underpayment of duties.

11 (4) The effectiveness of training with respect to  
12 the collection of duties provided for personnel of  
13 U.S. Customs and Border Protection.

14 (b) PERIOD COVERED BY REPORT.—Each report re-  
15 quired by subsection (a) shall cover the period of 2 fiscal  
16 years ending on September 30 of the calendar year pre-  
17 ceding the submission of the report.

18 **SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES**  
19 **WITH RESPECT TO MERCHANDISE TRANS-**  
20 **PORTED IN BOND.**

21 (a) IN GENERAL.—Not later than December 31 of  
22 2016, 2017, and 2018, the Secretary of Homeland Secu-  
23 rity and the Secretary of the Treasury shall jointly submit  
24 to the Committee on Finance of the Senate and the Com-  
25 mittee on Ways and Means of the House of Representa-

1 tives a report on efforts undertaken by U.S. Customs and  
2 Border Protection to ensure the secure transportation of  
3 merchandise in bond through the United States and the  
4 collection of revenue owed upon the entry of such mer-  
5 chandise into the United States for consumption.

6 (b) ELEMENTS.—Each report required by subsection  
7 (a) shall include, for the fiscal year preceding the submis-  
8 sion of the report, information on—

9 (1) the overall number of entries of merchan-  
10 dise for transportation in bond through the United  
11 States;

12 (2) the ports at which merchandise arrives in  
13 the United States for transportation in bond and at  
14 which records of the arrival of such merchandise are  
15 generated;

16 (3) the average time taken to reconcile such  
17 records with the records at the final destination of  
18 the merchandise in the United States to demonstrate  
19 that the merchandise reaches its final destination or  
20 is re-exported;

21 (4) the average time taken to transport mer-  
22 chandise in bond from the port at which the mer-  
23 chandise arrives in the United States to its final des-  
24 tination in the United States;

1           (5) the total amount of duties, taxes, and fees  
2           owed with respect to shipments of merchandise  
3           transported in bond and the total amount of such  
4           duties, taxes, and fees paid;

5           (6) the total number of notifications by carriers  
6           of merchandise being transported in bond that the  
7           destination of the merchandise has changed; and

8           (7) the number of entries that remain  
9           unreconciled.

10 **SEC. 114. IMPORTER OF RECORD PROGRAM.**

11           (a) ESTABLISHMENT.—Not later than the date that  
12 is 180 days after the date of the enactment of this Act,  
13 the Secretary of Homeland Security shall establish an im-  
14 porter of record program to assign and maintain importer  
15 of record numbers.

16           (b) REQUIREMENTS.—The Secretary shall ensure  
17 that, as part of the importer of record program, U.S. Cus-  
18 toms and Border Protection—

19           (1) develops criteria that importers must meet  
20           in order to obtain an importer of record number, in-  
21           cluding—

22           (A) criteria to ensure sufficient informa-  
23           tion is collected to allow U.S. Customs and Bor-  
24           der Protection to verify the existence of the im-

1           porter requesting the importer of record num-  
2           ber;

3           (B) criteria to ensure sufficient informa-  
4           tion is collected to allow U.S. Customs and Bor-  
5           der Protection to identify linkages or other af-  
6           filiations between importers that are requesting  
7           or have been assigned importer of record num-  
8           bers; and

9           (C) criteria to ensure sufficient informa-  
10          tion is collected to allow U.S. Customs and Bor-  
11          der Protection to identify changes in address  
12          and corporate structure of importers;

13          (2) provides a process by which importers are  
14          assigned importer of record numbers;

15          (3) maintains a centralized database of im-  
16          porter of record numbers, including a history of im-  
17          porter of record numbers associated with each im-  
18          porter, and the information described in subpara-  
19          graphs (A), (B), and (C) of paragraph (1);

20          (4) evaluates and maintains the accuracy of the  
21          database if such information changes; and

22          (5) takes measures to ensure that duplicate im-  
23          porter of record numbers are not issued.

24          (c) REPORT.—Not later than one year after the date  
25 of the enactment of this Act, the Secretary shall submit

1 to the Committee on Finance of the Senate and the Com-  
2 mittee on Ways and Means of the House of Representa-  
3 tives a report on the importer of record program estab-  
4 lished under subsection (a).

5 (d) NUMBER DEFINED.—In this subsection, the term  
6 “number”, with respect to an importer of record, means  
7 a filing identification number described in section 24.5 of  
8 title 19, Code of Federal Regulations (or any cor-  
9 responding similar regulation) that fully supports the re-  
10 quirements of subsection (b) with respect to the collection  
11 and maintenance of information.

12 **SEC. 115. ESTABLISHMENT OF NEW IMPORTER PROGRAM.**

13 (a) IN GENERAL.—Not later than the date that is  
14 180 days after the date of the enactment of this Act, the  
15 Commissioner shall establish a new importer program that  
16 directs U.S. Customs and Border Protection to adjust  
17 bond amounts for new importers based on the level of risk  
18 assessed by U.S. Customs and Border Protection for pro-  
19 tection of revenue of the Federal Government.

20 (b) REQUIREMENTS.—The Commissioner shall en-  
21 sure that, as part of the new importer program established  
22 under subsection (a), U.S. Customs and Border Protec-  
23 tion—



1           (1) develops risk-based criteria for determining  
2           which importers are considered to be new importers  
3           for the purposes of this subsection;

4           (2) develops risk assessment guidelines for new  
5           importers to determine if and to what extent—

6                   (A) to adjust bond amounts of imported  
7                   products of new importers; and

8                   (B) to increase screening of imported prod-  
9                   ucts of new importers;

10          (3) develops procedures to ensure increased  
11          oversight of imported products of new importers re-  
12          lating to the enforcement of the priority trade issues  
13          described in paragraph (3)(B)(ii) of section 2(d) of  
14          the Act of March 3, 1927 (44 Stat. 1381, chapter  
15          348; 19 U.S.C. 2072(d)), as added by section 111(a)  
16          of this Act;

17          (4) develops procedures to ensure increased  
18          oversight of imported products of new importers by  
19          Centers of Excellence and Expertise established  
20          under section 110 of this Act; and

21          (5) establishes a centralized database of new  
22          importers to ensure accuracy of information that is  
23          required to be provided by new importers to U.S.  
24          Customs and Border Protection.

1    **TITLE II—IMPORT HEALTH AND**  
2                                   **SAFETY**

3    **SEC. 201. INTERAGENCY IMPORT SAFETY WORKING GROUP.**

4           (a) ESTABLISHMENT.—There is established an inter-  
5 agency Import Safety Working Group.

6           (b) MEMBERSHIP.—The interagency Import Safety  
7 Working Group shall consist of the following officials or  
8 their designees:

9                   (1) The Secretary of Homeland Security, who  
10 shall serve as the Chair.

11                   (2) The Secretary of Health and Human Serv-  
12 ices, who shall serve as the Vice Chair.

13                   (3) The Secretary of the Treasury.

14                   (4) The Secretary of Commerce.

15                   (5) The Secretary of Agriculture.

16                   (6) The United States Trade Representative.

17                   (7) The Director of the Office of Management  
18 and Budget.

19                   (8) The Commissioner of Food and Drugs.

20                   (9) The Commissioner responsible for U.S. Cus-  
21 toms and Border Protection.

22                   (10) The Chairman of the Consumer Product  
23 Safety Commission.

24                   (11) The Director of U.S. Immigration and  
25 Customs Enforcement.

1           (12) The head of any other Federal agency des-  
2           ignated by the President to participate in the inter-  
3           agency Import Safety Working Group, as appro-  
4           priate.

5           (c) DUTIES.—The duties of the interagency Import  
6           Safety Working Group shall include—

7           (1) consulting on the development of the joint  
8           import safety rapid response plan required by sec-  
9           tion 202 of this Act;

10          (2) periodically evaluating the adequacy of the  
11          plans, practices, and resources of the Federal Gov-  
12          ernment dedicated to ensuring the safety of mer-  
13          chandise imported in the United States and the ex-  
14          peditious entry of such merchandise, including—

15                (A) minimizing the duplication of efforts  
16                among agencies the heads of which are mem-  
17                bers of the interagency Import Safety Working  
18                Group and ensuring the compatibility of the  
19                policies and regulations of those agencies; and

20                (B) recommending additional administra-  
21                tive actions, as appropriate, designed to ensure  
22                the safety of merchandise imported into the  
23                United States and the expeditious entry of such  
24                merchandise and considering the impact of  
25                those actions on private sector entities;

1           (3) reviewing the engagement and cooperation  
2 of foreign governments and foreign manufacturers in  
3 facilitating the inspection and certification, as appro-  
4 priate, of such merchandise to be imported into the  
5 United States and the facilities producing such mer-  
6 chandise to ensure the safety of the merchandise  
7 and the expeditious entry of the merchandise into  
8 the United States;

9           (4) identifying best practices, in consultation  
10 with private sector entities as appropriate, to assist  
11 United States importers in taking all appropriate  
12 steps to ensure the safety of merchandise imported  
13 into the United States, including with respect to—

14                 (A) the inspection of manufacturing facili-  
15 ties in foreign countries;

16                 (B) the inspection of merchandise destined  
17 for the United States before exportation from a  
18 foreign country or before distribution in the  
19 United States; and

20                 (C) the protection of the international sup-  
21 ply chain (as defined in section 2 of the Secu-  
22 rity and Accountability For Every Port Act of  
23 2006 (6 U.S.C. 901));

24           (5) identifying best practices to assist Federal,  
25 State, and local governments and agencies, and port

1 authorities, to improve communication and coordina-  
2 tion among such agencies and authorities with re-  
3 spect to ensuring the safety of merchandise imported  
4 into the United States and the expeditious entry of  
5 such merchandise; and

6 (6) otherwise identifying appropriate steps to  
7 increase the accountability of United States import-  
8 ers and the engagement of foreign government agen-  
9 cies with respect to ensuring the safety of merchan-  
10 dise imported into the United States and the expedi-  
11 tious entry of such merchandise.

12 **SEC. 202. JOINT IMPORT SAFETY RAPID RESPONSE PLAN.**

13 (a) IN GENERAL.—Not later than December 31,  
14 2016, the Secretary of Homeland Security, in consultation  
15 with the interagency Import Safety Working Group, shall  
16 develop a plan (to be known as the “joint import safety  
17 rapid response plan”) that sets forth protocols and defines  
18 practices for U.S. Customs and Border Protection to  
19 use—

20 (1) in taking action in response to, and coordi-  
21 nating Federal responses to, an incident in which  
22 cargo destined for or merchandise entering the  
23 United States has been identified as posing a threat  
24 to the health or safety of consumers in the United  
25 States; and

1           (2) in recovering from or mitigating the effects  
2 of actions and responses to an incident described in  
3 paragraph (1).

4           (b) CONTENTS.—The joint import safety rapid re-  
5 sponse plan shall address—

6           (1) the statutory and regulatory authorities and  
7 responsibilities of U.S. Customs and Border Protec-  
8 tion and other Federal agencies in responding to an  
9 incident described in subsection (a)(1);

10           (2) the protocols and practices to be used by  
11 U.S. Customs and Border Protection when taking  
12 action in response to, and coordinating Federal re-  
13 sponses to, such an incident;

14           (3) the measures to be taken by U.S. Customs  
15 and Border Protection and other Federal agencies in  
16 recovering from or mitigating the effects of actions  
17 taken in response to such an incident after the inci-  
18 dent to ensure the resumption of the entry of mer-  
19 chandise into the United States; and

20           (4) exercises that U.S. Customs and Border  
21 Protection may conduct in conjunction with Federal,  
22 State, and local agencies, and private sector entities,  
23 to simulate responses to such an incident.

24           (c) UPDATES OF PLAN.—The Secretary of Homeland  
25 Security shall review and update the joint import safety

1 rapid response plan, as appropriate, after conducting exer-  
2 cises under subsection (d).

3 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

4 (1) IN GENERAL.—The Secretary of Homeland  
5 Security and the Commissioner shall periodically en-  
6 gage in the exercises referred to in subsection (b)(4),  
7 in conjunction with Federal, State, and local agen-  
8 cies and private sector entities, as appropriate, to  
9 test and evaluate the protocols and practices identi-  
10 fied in the joint import safety rapid response plan at  
11 United States ports of entry.

12 (2) REQUIREMENTS FOR EXERCISES.—In con-  
13 ducting exercises under paragraph (1), the Secretary  
14 and the Commissioner shall—

15 (A) make allowance for the resources,  
16 needs, and constraints of United States ports of  
17 entry of different sizes in representative geo-  
18 graphic locations across the United States;

19 (B) base evaluations on current risk as-  
20 sessments of merchandise entering the United  
21 States at representative United States ports of  
22 entry located across the United States;

23 (C) ensure that such exercises are con-  
24 ducted in a manner consistent with the Na-  
25 tional Incident Management System, the Na-

1           tional Response Plan, the National Infrastruc-  
2           ture Protection Plan, the National Prepared-  
3           ness Guidelines, the Maritime Transportation  
4           System Security Plan, and other such national  
5           initiatives of the Department of Homeland Se-  
6           curity, as appropriate; and

7           (D) develop metrics with respect to the re-  
8           sumption of the entry of merchandise into the  
9           United States after an incident described in  
10          subsection (a)(1).

11          (3) REQUIREMENTS FOR TESTING AND EVALUA-  
12          TION.—The Secretary and the Commissioner shall  
13          ensure that the testing and evaluation carried out in  
14          conducting exercises under paragraph (1)—

15                (A) are performed using clear and objec-  
16                tive performance measures; and

17                (B) result in the identification of specific  
18                recommendations or best practices for respond-  
19                ing to an incident described in subsection  
20                (a)(1).

21          (4) DISSEMINATION OF RECOMMENDATIONS  
22          AND BEST PRACTICES.—The Secretary and the  
23          Commissioner shall—

24                (A) share the recommendations or best  
25                practices identified under paragraph (3)(B)



1 among the members of the interagency Import  
2 Safety Working Group and with, as appro-  
3 priate—

4 (i) State, local, and tribal govern-  
5 ments;

6 (ii) foreign governments; and

7 (iii) private sector entities; and

8 (B) use such recommendations and best  
9 practices to update the joint import safety rapid  
10 response plan.

11 **SEC. 203. TRAINING.**

12 The Commissioner shall ensure that personnel of  
13 U.S. Customs and Border Protection assigned to United  
14 States ports of entry are trained to effectively administer  
15 the provisions of this title and to otherwise assist in ensur-  
16 ing the safety of merchandise imported into the United  
17 States and the expeditious entry of such merchandise.

18 **TITLE III—IMPORT-RELATED**  
19 **PROTECTION OF INTELLEC-**  
20 **TUAL PROPERTY RIGHTS**

21 **SEC. 301. DEFINITION OF INTELLECTUAL PROPERTY**  
22 **RIGHTS.**

23 In this title, the term “intellectual property rights”  
24 refers to copyrights, trademarks, and other forms of intel-  
25 lectual property rights that are enforced by U.S. Customs

1 and Border Protection or U.S. Immigration and Customs  
2 Enforcement.

3 **SEC. 302. EXCHANGE OF INFORMATION RELATED TO**  
4 **TRADE ENFORCEMENT.**

5 (a) IN GENERAL.—The Tariff Act of 1930 is amend-  
6 ed by inserting after section 628 (19 U.S.C. 1628) the  
7 following new section:

8 **“SEC. 628A. EXCHANGE OF INFORMATION RELATED TO**  
9 **TRADE ENFORCEMENT.**

10 “(a) IN GENERAL.—Subject to subsections (c) and  
11 (d), if the Commissioner responsible for U.S. Customs and  
12 Border Protection suspects that merchandise is being im-  
13 ported into the United States in violation of section 526  
14 of this Act or section 602, 1201(a)(2), or 1201(b)(1) of  
15 title 17, United States Code, and determines that the ex-  
16 amination or testing of the merchandise by a person de-  
17 scribed in subsection (b) would assist the Commissioner  
18 in determining if the merchandise is being imported in vio-  
19 lation of that section, the Commissioner, to permit the  
20 person to conduct the examination and testing—

21 “(1) shall provide to the person information  
22 that appears on the merchandise and its packaging  
23 and labels, including unredacted images of the mer-  
24 chandise and its packaging and labels; and

1           “(2) may, subject to any applicable bonding re-  
2           quirements, provide to the person unredacted sam-  
3           ples of the merchandise.

4           “(b) PERSON DESCRIBED.—A person described in  
5 this subsection is—

6           “(1) in the case of merchandise suspected of  
7           being imported in violation of section 526, the owner  
8           of the trademark suspected of being copied or simu-  
9           lated by the merchandise;

10           “(2) in the case of merchandise suspected of  
11           being imported in violation of section 602 of title 17,  
12           United States Code, the owner of the copyright sus-  
13           pected of being infringed by the merchandise;

14           “(3) in the case of merchandise suspected of  
15           being primarily designed or produced for the pur-  
16           pose of circumventing a technological measure that  
17           effectively controls access to a work protected under  
18           that title, and being imported in violation of section  
19           1201(a)(2) of that title, the owner of a copyright in  
20           the work; and

21           “(4) in the case of merchandise suspected of  
22           being primarily designed or produced for the pur-  
23           pose of circumventing protection afforded by a tech-  
24           nological measure that effectively protects a right of  
25           an owner of a copyright in a work or a portion of

1 a work, and being imported in violation of section  
2 1201(b)(1) of that title, the owner of the copyright.

3 “(c) LIMITATION.—Subsection (a) applies only with  
4 respect to merchandise suspected of infringing a trade-  
5 mark or copyright that is recorded with U.S. Customs and  
6 Border Protection.

7 “(d) EXCEPTION.—The Commissioner may not pro-  
8 vide under subsection (a) information, photographs, or  
9 samples to a person described in subsection (b) if pro-  
10 viding such information, photographs, or samples would  
11 compromise an ongoing law enforcement investigation or  
12 national security.”.

13 (b) TERMINATION OF PREVIOUS AUTHORITY.—Not-  
14 withstanding paragraph (2) of section 818(g) of Public  
15 Law 112–81 (125 Stat. 1496), paragraph (1) of that sec-  
16 tion shall have no force or effect on or after the date of  
17 the enactment of this Act.

18 **SEC. 303. SEIZURE OF CIRCUMVENTION DEVICES.**

19 (a) IN GENERAL.—Section 596(c)(2) of the Tariff  
20 Act of 1930 (19 U.S.C. 1595a(c)(2)) is amended—

21 (1) in subparagraph (E), by striking “or”;

22 (2) in subparagraph (F), by striking the period  
23 and inserting “; or”; and

24 (3) by adding at the end the following:

1           “(G) U.S. Customs and Border Protection  
2           determines it is a technology, product, service,  
3           device, component, or part thereof the importa-  
4           tion of which is prohibited under subsection  
5           (a)(2) or (b)(1) of section 1201 of title 17,  
6           United States Code.”.

7           (b) NOTIFICATION OF PERSONS INJURED.—

8           (1) IN GENERAL.—Not later than the date that  
9           is 30 business days after seizing merchandise pursu-  
10          ant to subparagraph (G) of section 596(c)(2) of the  
11          Tariff Act of 1930, as added by subsection (a), the  
12          Commissioner shall provide to any person identified  
13          under paragraph (2) information regarding the mer-  
14          chandise seized that is equivalent to information  
15          provided to copyright owners under regulations of  
16          U.S. Customs and Border Protection for merchan-  
17          dise seized for violation of the copyright laws.

18          (2) PERSONS TO BE PROVIDED INFORMA-  
19          TION.—Any person injured by the violation of (a)(2)  
20          or (b)(1) of section 1201 of title 17, United States  
21          Code, that resulted in the seizure of the merchandise  
22          shall be provided information under paragraph (1),  
23          if that person is included on a list maintained by the  
24          Commissioner that is revised annually through publi-  
25          cation in the Federal Register.

1           (3) REGULATIONS.—Not later than one year  
2           after the date of the enactment of this Act, the Sec-  
3           retary of the Treasury shall prescribe regulations es-  
4           tablishing procedures that implement this sub-  
5           section.

6 **SEC. 304. ENFORCEMENT BY U.S. CUSTOMS AND BORDER**  
7                                   **PROTECTION OF WORKS FOR WHICH COPY-**  
8                                   **RIGHT REGISTRATION IS PENDING.**

9           Not later than the date that is 180 days after the  
10          date of the enactment of this Act, the Secretary of Home-  
11          land Security shall authorize a process pursuant to which  
12          the Commissioner shall enforce a copyright for which the  
13          owner has submitted an application for registration under  
14          title 17, United States Code, with the United States Copy-  
15          right Office, to the same extent and in the same manner  
16          as if the copyright were registered with the Copyright Of-  
17          fice, including by sharing information, images, and sam-  
18          ples of merchandise suspected of infringing the copyright  
19          under section 628A of the Tariff Act of 1930, as added  
20          by section 302.

21 **SEC. 305. NATIONAL INTELLECTUAL PROPERTY RIGHTS**  
22                                   **COORDINATION CENTER.**

23          (a) ESTABLISHMENT.—The Secretary of Homeland  
24          Security shall—

1           (1) establish within U.S. Immigration and Cus-  
2           toms Enforcement a National Intellectual Property  
3           Rights Coordination Center; and

4           (2) appoint an Assistant Director to head the  
5           National Intellectual Property Rights Coordination  
6           Center.

7           (b) DUTIES.—The Assistant Director of the National  
8           Intellectual Property Rights Coordination Center shall—

9           (1) coordinate the investigation of sources of  
10          merchandise that infringe intellectual property rights  
11          to identify organizations and individuals that  
12          produce, smuggle, or distribute such merchandise;

13          (2) conduct and coordinate training with other  
14          domestic and international law enforcement agencies  
15          on investigative best practices—

16                 (A) to develop and expand the capability of  
17                 such agencies to enforce intellectual property  
18                 rights; and

19                 (B) to develop metrics to assess whether  
20                 the training improved enforcement of intellec-  
21                 tual property rights;

22          (3) coordinate, with U.S. Customs and Border  
23          Protection, activities conducted by the United States  
24          to prevent the importation or exportation of mer-  
25          chandise that infringes intellectual property rights;

1           (4) support the international interdiction of  
2 merchandise destined for the United States that in-  
3 fringes intellectual property rights;

4           (5) collect and integrate information regarding  
5 infringement of intellectual property rights from do-  
6 mestic and international law enforcement agencies  
7 and other non-Federal sources;

8           (6) develop a means to receive and organize in-  
9 formation regarding infringement of intellectual  
10 property rights from such agencies and other  
11 sources;

12           (7) disseminate information regarding infringe-  
13 ment of intellectual property rights to other Federal  
14 agencies, as appropriate;

15           (8) develop and implement risk-based alert sys-  
16 tems, in coordination with U.S. Customs and Border  
17 Protection, to improve the targeting of persons that  
18 repeatedly infringe intellectual property rights;

19           (9) coordinate with the offices of United States  
20 attorneys in order to develop expertise in, and assist  
21 with the investigation and prosecution of, crimes re-  
22 lating to the infringement of intellectual property  
23 rights; and

24           (10) carry out such other duties as the Sec-  
25 retary of Homeland Security may assign.



1           (c) COORDINATION WITH OTHER AGENCIES.—In  
2 carrying out the duties described in subsection (b), the As-  
3 sistant Director of the National Intellectual Property  
4 Rights Coordination Center shall coordinate with—

- 5           (1) U.S. Customs and Border Protection;
- 6           (2) the Food and Drug Administration;
- 7           (3) the Department of Justice;
- 8           (4) the Department of Commerce, including the  
9 United States Patent and Trademark Office;
- 10           (5) the United States Postal Inspection Service;
- 11           (6) the Office of the United States Trade Rep-  
12 resentative;
- 13           (7) any Federal, State, local, or international  
14 law enforcement agencies that the Director of U.S.  
15 Immigration and Customs Enforcement considers  
16 appropriate; and
- 17           (8) any other entities that the Director con-  
18 siders appropriate.

19           (d) PRIVATE SECTOR OUTREACH.—

20           (1) IN GENERAL.—The Assistant Director of  
21 the National Intellectual Property Rights Coordina-  
22 tion Center shall work with U.S. Customs and Bor-  
23 der Protection and other Federal agencies to con-  
24 duct outreach to private sector entities in order to

1 determine trends in and methods of infringing intel-  
2 lectual property rights.

3 (2) INFORMATION SHARING.—The Assistant Di-  
4 rector shall share information and best practices  
5 with respect to the enforcement of intellectual prop-  
6 erty rights with private sector entities, as appro-  
7 priate, in order to coordinate public and private sec-  
8 tor efforts to combat the infringement of intellectual  
9 property rights.

10 **SEC. 306. JOINT STRATEGIC PLAN FOR THE ENFORCEMENT**  
11 **OF INTELLECTUAL PROPERTY RIGHTS.**

12 The Commissioner and the Director of U.S. Immigra-  
13 tion and Customs Enforcement shall include in the joint  
14 strategic plan required by section 105 of this Act—

15 (1) a description of the efforts of the Depart-  
16 ment of Homeland Security to enforce intellectual  
17 property rights;

18 (2) a list of the 10 United States ports of entry  
19 at which U.S. Customs and Border Protection has  
20 seized the most merchandise, both by volume and by  
21 value, that infringes intellectual property rights dur-  
22 ing the most recent 2-year period for which data are  
23 available; and

24 (3) a recommendation for the optimal allocation  
25 of personnel, resources, and technology to ensure

1 that U.S. Customs and Border Protection and U.S.  
2 Immigration and Customs Enforcement are ade-  
3 quately enforcing intellectual property rights.

4 **SEC. 307. PERSONNEL DEDICATED TO THE ENFORCEMENT**  
5 **OF INTELLECTUAL PROPERTY RIGHTS.**

6 (a) PERSONNEL OF U.S. CUSTOMS AND BORDER  
7 PROTECTION.—The Commissioner and the Director of  
8 U.S. Immigration and Customs Enforcement shall ensure  
9 that sufficient personnel are assigned throughout U.S.  
10 Customs and Border Protection and U.S. Immigration  
11 and Customs Enforcement, respectively, who have respon-  
12 sibility for preventing the importation into the United  
13 States of merchandise that infringes intellectual property  
14 rights.

15 (b) STAFFING OF NATIONAL INTELLECTUAL PROP-  
16 erty Rights Coordination Center.—The Commis-  
17 sioner shall—

18 (1) assign not fewer than 3 full-time employees  
19 of U.S. Customs and Border Protection to the Na-  
20 tional Intellectual Property Rights Coordination  
21 Center established under section 305 of this Act;  
22 and

23 (2) ensure that sufficient personnel are as-  
24 signed to United States ports of entry to carry out  
25 the directives of the Center.

1 **SEC. 308. TRAINING WITH RESPECT TO THE ENFORCEMENT**  
2 **OF INTELLECTUAL PROPERTY RIGHTS.**

3 (a) TRAINING.—The Commissioner shall ensure that  
4 officers of U.S. Customs and Border Protection are  
5 trained to effectively detect and identify merchandise des-  
6 tined for the United States that infringes intellectual  
7 property rights, including through the use of technologies  
8 identified under subsection (c).

9 (b) CONSULTATION WITH PRIVATE SECTOR.—The  
10 Commissioner shall consult with private sector entities to  
11 better identify opportunities for collaboration between  
12 U.S. Customs and Border Protection and such entities  
13 with respect to training for officers of U.S. Customs and  
14 Border Protection in enforcing intellectual property rights.

15 (c) IDENTIFICATION OF NEW TECHNOLOGIES.—In  
16 consultation with private sector entities, the Commissioner  
17 shall identify—

18 (1) technologies with the cost-effective capa-  
19 bility to detect and identify merchandise at United  
20 States ports of entry that infringes intellectual prop-  
21 erty rights; and

22 (2) cost-effective programs for training officers  
23 of U.S. Customs and Border Protection to use such  
24 technologies.

25 (d) DONATIONS OF TECHNOLOGY.—Not later than  
26 the date that is 180 days after the date of the enactment

1 of this Act, the Commissioner shall prescribe regulations  
2 to enable U.S. Customs and Border Protection to receive  
3 donations of hardware, software, equipment, and similar  
4 technologies, and to accept training and other support  
5 services, from private sector entities, for the purpose of  
6 enforcing intellectual property rights.

7 **SEC. 309. INTERNATIONAL COOPERATION AND INFORMA-**  
8 **TION SHARING.**

9 (a) COOPERATION.—The Secretary of Homeland Se-  
10 curity shall coordinate with the competent law enforce-  
11 ment and customs authorities of foreign countries, includ-  
12 ing by sharing information relevant to enforcement ac-  
13 tions, to enhance the efforts of the United States and such  
14 authorities to enforce intellectual property rights.

15 (b) TECHNICAL ASSISTANCE.—The Secretary of  
16 Homeland Security shall provide technical assistance to  
17 competent law enforcement and customs authorities of for-  
18 eign countries to enhance the ability of such authorities  
19 to enforce intellectual property rights.

20 (c) INTERAGENCY COLLABORATION.—The Commis-  
21 sioner and the Director of U.S. Immigration and Customs  
22 Enforcement shall lead interagency efforts to collaborate  
23 with law enforcement and customs authorities of foreign  
24 countries to enforce intellectual property rights.

1 **SEC. 310. REPORT ON INTELLECTUAL PROPERTY RIGHTS**  
2 **ENFORCEMENT.**

3 Not later than June 30, 2016, and annually there-  
4 after, the Commissioner and the Director of U.S. Immi-  
5 gration and Customs Enforcement shall jointly submit to  
6 the Committee on Finance of the Senate and the Com-  
7 mittee on Ways and Means of the House of Representa-  
8 tives a report that contains the following:

9 (1) With respect to the enforcement of intellec-  
10 tual property rights, the following:

11 (A) The number of referrals from U.S.  
12 Customs and Border Protection to U.S. Immi-  
13 gration and Customs Enforcement relating to  
14 infringement of intellectual property rights dur-  
15 ing the preceding year.

16 (B) The number of investigations relating  
17 to the infringement of intellectual property  
18 rights referred by U.S. Immigration and Cus-  
19 toms Enforcement to a United States attorney  
20 for prosecution and the United States attorneys  
21 to which those investigations were referred.

22 (C) The number of such investigations ac-  
23 cepted by each such United States attorney and  
24 the status or outcome of each such investiga-  
25 tion.

1           (D) The number of such investigations  
2           that resulted in the imposition of civil or crimi-  
3           nal penalties.

4           (E) A description of the efforts of U.S.  
5           Custom and Border Protection and U.S. Immigra-  
6           tion and Customs Enforcement to improve  
7           the success rates of investigations and prosecu-  
8           tions relating to the infringement of intellectual  
9           property rights.

10          (2) An estimate of the average time required by  
11          the Office of International Trade of U.S. Customs  
12          and Border Protection to respond to a request from  
13          port personnel for advice with respect to whether  
14          merchandise detained by U.S. Customs and Border  
15          Protection infringed intellectual property rights, dis-  
16          tinguished by types of intellectual property rights in-  
17          fringed.

18          (3) A summary of the outreach efforts of U.S.  
19          Customs and Border Protection and U.S. Immigra-  
20          tion and Customs Enforcement with respect to—

21                (A) the interdiction and investigation of,  
22                and the sharing of information between those  
23                agencies and other Federal agencies to prevent  
24                the infringement of intellectual property rights;

1 (B) collaboration with private sector enti-  
2 ties—

3 (i) to identify trends in the infringe-  
4 ment of, and technologies that infringe, in-  
5 tellectual property rights;

6 (ii) to identify opportunities for en-  
7 hanced training of officers of U.S. Cus-  
8 toms and Border Protection and U.S. Im-  
9 migration and Customs Enforcement; and

10 (iii) to develop best practices to en-  
11 force intellectual property rights; and

12 (C) coordination with foreign governments  
13 and international organizations with respect to  
14 the enforcement of intellectual property rights.

15 (4) A summary of the efforts of U.S. Customs  
16 and Border Protection and U.S. Immigration and  
17 Customs Enforcement to address the challenges with  
18 respect to the enforcement of intellectual property  
19 rights presented by Internet commerce and the tran-  
20 sit of small packages and an identification of the  
21 volume, value, and type of merchandise seized for in-  
22 fringing intellectual property rights as a result of  
23 such efforts.

24 (5) A summary of training relating to the en-  
25 forcement of intellectual property rights conducted



1 under section 308 of this Act and expenditures for  
2 such training.

3 **SEC. 311. INFORMATION FOR TRAVELERS REGARDING VIOLA-**  
4 **LATIONS OF INTELLECTUAL PROPERTY**  
5 **RIGHTS.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-  
7 rity shall develop and carry out an educational campaign  
8 to inform travelers entering or leaving the United States  
9 about the legal, economic, and public health and safety  
10 implications of acquiring merchandise that infringes intel-  
11 lectual property rights outside the United States and im-  
12 porting such merchandise into the United States in viola-  
13 tion of United States law.

14 (b) DECLARATION FORMS.—The Commissioner shall  
15 ensure that all versions of Declaration Form 6059B of  
16 U.S. Customs and Border Protection, or a successor form,  
17 including any electronic equivalent of Declaration Form  
18 6059B or a successor form, printed or displayed on or  
19 after the date that is 30 days after the date of the enact-  
20 ment of this Act include a written warning to inform trav-  
21 elers arriving in the United States that importation of  
22 merchandise into the United States that infringes intellec-  
23 tual property rights may subject travelers to civil or crimi-  
24 nal penalties and may pose serious risks to safety or  
25 health.

1 **TITLE IV—EVASION OF ANTI-**  
2 **DUMPING AND COUNTER-**  
3 **VAILING DUTY ORDERS**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Enforcing Orders and  
6 Reducing Customs Evasion Act of 2015”.

7 **SEC. 402. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
8 **EVASION OF ANTIDUMPING AND COUNTER-**  
9 **VAILING DUTY ORDERS.**

10 (a) **IN GENERAL.**—The Tariff Act of 1930 is amend-  
11 ed by inserting after section 516A (19 U.S.C. 1516a) the  
12 following:

13 **“SEC. 517. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
14 **EVASION OF ANTIDUMPING AND COUNTER-**  
15 **VAILING DUTY ORDERS.**

16 “(a) **DEFINITIONS.**—In this section:

17 “(1) **ADMINISTERING AUTHORITY.**—The term  
18 ‘administering authority’ has the meaning given that  
19 term in section 771(1).

20 “(2) **COMMISSIONER.**—The term ‘Commis-  
21 sioner’ means the Commissioner responsible for U.S.  
22 Customs and Border Protection, acting pursuant to  
23 the delegation by the Secretary of the Treasury of  
24 the authority of the Secretary with respect to cus-

1       toms revenue functions (as defined in section 415 of  
2       the Homeland Security Act of 2002 (6 U.S.C. 215)).

3           “(3) COVERED MERCHANDISE.—The term ‘cov-  
4       ered merchandise’ means merchandise that is subject  
5       to—

6           “(A) an antidumping duty order issued  
7       under section 736;

8           “(B) a finding issued under the Anti-  
9       dumping Act, 1921; or

10          “(C) a countervailing duty order issued  
11       under section 706.

12          “(4) ENTER; ENTRY.—The terms ‘enter’ and  
13       ‘entry’ refer to the entry, or withdrawal from ware-  
14       house for consumption, of merchandise in the cus-  
15       toms territory of the United States.

16          “(5) EVASION.—

17           “(A) IN GENERAL.—Except as provided in  
18       subparagraph (B), the term ‘evasion’ refers to  
19       entering covered merchandise into the customs  
20       territory of the United States by means of any  
21       document or electronically transmitted data or  
22       information, written or oral statement, or act  
23       that is material and false, or any omission that  
24       is material, and that results in any cash deposit  
25       or other security or any amount of applicable

1           antidumping or countervailing duties being re-  
2           duced or not being applied with respect to the  
3           merchandise.

4           “(B) EXCEPTION FOR CLERICAL ERROR.—

5           “(i) IN GENERAL.—Except as pro-  
6           vided in clause (ii), the term ‘evasion’ does  
7           not include entering covered merchandise  
8           into the customs territory of the United  
9           States by means of—

10           “(I) a document or electronically  
11           transmitted data or information, writ-  
12           ten or oral statement, or act that is  
13           false as a result of a clerical error; or

14           “(II) an omission that results  
15           from a clerical error.

16           “(ii) PATTERNS OF NEGLIGENT CON-  
17           DUCT.—If the Commissioner determines  
18           that a person has entered covered mer-  
19           chandise into the customs territory of the  
20           United States by means of a clerical error  
21           referred to in subclause (I) or (II) of  
22           clause (i) and that the clerical error is part  
23           of a pattern of negligent conduct on the  
24           part of that person, the Commissioner may  
25           determine, notwithstanding clause (i), that

1 the person has entered such covered mer-  
2 chandise into the customs territory of the  
3 United States through evasion.

4 “(iii) ELECTRONIC REPETITION OF  
5 ERRORS.—For purposes of clause (ii), the  
6 mere nonintentional repetition by an elec-  
7 tronic system of an initial clerical error  
8 does not constitute a pattern of negligent  
9 conduct.

10 “(iv) RULE OF CONSTRUCTION.—A  
11 determination by the Commissioner that a  
12 person has entered covered merchandise  
13 into the customs territory of the United  
14 States by means of a clerical error referred  
15 to in subclause (I) or (II) of clause (i)  
16 rather than through evasion shall not be  
17 construed to excuse that person from the  
18 payment of any duties applicable to the  
19 merchandise.

20 “(6) INTERESTED PARTY.—

21 “(A) IN GENERAL.—The term ‘interested  
22 party’ means—

23 “(i) a manufacturer, producer, or  
24 wholesaler in the United States of a do-  
25 mestic like product;

1           “(ii) a certified union or recognized  
2 union or group of workers that is rep-  
3 resentative of an industry engaged in the  
4 manufacture, production, or wholesale in  
5 the United States of a domestic like prod-  
6 uct;

7           “(iii) a trade or business association a  
8 majority of whose members manufacture,  
9 produce, or wholesale a domestic like prod-  
10 uct in the United States;

11           “(iv) an association, a majority of  
12 whose members is composed of interested  
13 parties described in clause (i), (ii), or (iii)  
14 with respect to a domestic like product;  
15 and

16           “(v) if the covered merchandise is a  
17 processed agricultural product, as defined  
18 in section 771(4)(E), a coalition or trade  
19 association that is representative of ei-  
20 ther—

21                   “(I) processors;

22                   “(II) processors and producers;

23                   or

24                   “(III) processors and growers;

1 but this clause shall cease to have effect if  
2 the United States Trade Representative  
3 notifies the administering authority and  
4 the Commission that the application of this  
5 clause is inconsistent with the international  
6 obligations of the United States.

7 “(B) DOMESTIC LIKE PRODUCT.—For pur-  
8 poses of subparagraph (A), the term ‘domestic  
9 like product’ means a product that is like, or in  
10 the absence of like, most similar in characteris-  
11 tics and uses with, covered merchandise.

12 “(b) INVESTIGATIONS.—

13 “(1) IN GENERAL.—Not later than 10 business  
14 days after receiving an allegation described in para-  
15 graph (2) or a referral described in paragraph (3),  
16 the Commissioner shall initiate an investigation if  
17 the Commissioner determines that the information  
18 provided in the allegation or the referral, as the case  
19 may be, reasonably suggests that covered merchan-  
20 dise has been entered into the customs territory of  
21 the United States through evasion.

22 “(2) ALLEGATION DESCRIBED.—An allegation  
23 described in this paragraph is an allegation that a  
24 person has entered covered merchandise into the

1 customs territory of the United States through eva-  
2 sion that is—

3 “(A) filed with the Commissioner by an in-  
4 terested party; and

5 “(B) accompanied by information reason-  
6 ably available to the party that filed the allega-  
7 tion.

8 “(3) REFERRAL DESCRIBED.—A referral de-  
9 scribed in this paragraph is information submitted  
10 to the Commissioner by any other Federal agency,  
11 including the Department of Commerce or the  
12 United States International Trade Commission, that  
13 reasonably suggests that a person has entered cov-  
14 ered merchandise into the customs territory of the  
15 United States through evasion.

16 “(4) CONSOLIDATION OF ALLEGATIONS AND  
17 REFERRALS.—

18 “(A) IN GENERAL.—The Commissioner  
19 may consolidate multiple allegations described  
20 in paragraph (2) and referrals described in  
21 paragraph (3) into a single investigation if the  
22 Commissioner determines it is appropriate to do  
23 so.

24 “(B) EFFECT ON TIMING REQUIRE-  
25 MENTS.—If the Commissioner consolidates mul-



1           tiple allegations or referrals into a single inves-  
2           tigation under subparagraph (A), the date on  
3           which the Commissioner receives the first such  
4           allegation or referral shall be used for purposes  
5           of the requirement under paragraph (1) with  
6           respect to the timing of the initiation of the in-  
7           vestigation.

8           “(5) INFORMATION-SHARING TO PROTECT  
9           HEALTH AND SAFETY.—If, during the course of con-  
10          ducting an investigation under paragraph (1) with  
11          respect to covered merchandise, the Commissioner  
12          has reason to suspect that such covered merchandise  
13          may pose a health or safety risk to consumers, the  
14          Commissioner shall provide, as appropriate, informa-  
15          tion to the appropriate Federal agencies for pur-  
16          poses of mitigating the risk.

17          “(6) TECHNICAL ASSISTANCE AND ADVICE.—

18                 “(A) IN GENERAL.—Upon request, the  
19                 Commissioner shall provide technical assistance  
20                 and advice to eligible small businesses to enable  
21                 such businesses to prepare and submit allega-  
22                 tions described in paragraph (2), except that  
23                 the Commissioner may deny assistance if the  
24                 Commissioner concludes that the allegation, if  
25                 submitted, would not lead to the initiation of an

1 investigation under this subsection or any other  
2 action to address the allegation.

3 “(B) ELIGIBLE SMALL BUSINESS DE-  
4 FINED.—

5 “(i) IN GENERAL.—In this paragraph,  
6 the term ‘eligible small business’ means  
7 any business concern that the Commis-  
8 sioner determines, due to its small size,  
9 has neither adequate internal resources nor  
10 the financial ability to obtain qualified out-  
11 side assistance in preparing and filing alle-  
12 gations described in paragraph (2).

13 “(ii) NON-REVIEWABILITY.—The de-  
14 termination of the Commissioner regarding  
15 whether a business concern is an eligible  
16 small business for purposes of this para-  
17 graph is not reviewable by any other agen-  
18 cy or by any court.

19 “(c) DETERMINATIONS.—

20 “(1) IN GENERAL.—Not later than 270 cal-  
21 endar days after the date on which the Commis-  
22 sioner initiates an investigation under subsection (b)  
23 with respect to covered merchandise, the Commis-  
24 sioner shall make a determination, based on sub-  
25 stantial evidence, with respect to whether such cov-

1       ered merchandise was entered into the customs terri-  
2       tory of the United States through evasion.

3               “(2) AUTHORITY TO COLLECT AND VERIFY AD-  
4       DITIONAL INFORMATION.—In making a determina-  
5       tion under paragraph (1) with respect to covered  
6       merchandise, the Commissioner may collect such ad-  
7       ditional information as is necessary to make the de-  
8       termination through such methods as the Commis-  
9       sioner considers appropriate, including by—

10               “(A) issuing a questionnaire with respect  
11       to such covered merchandise to—

12               “(i) an interested party that filed an  
13       allegation under paragraph (2) of sub-  
14       section (b) that resulted in the initiation of  
15       an investigation under paragraph (1) of  
16       that subsection with respect to such cov-  
17       ered merchandise;

18               “(ii) a person alleged to have entered  
19       such covered merchandise into the customs  
20       territory of the United States through eva-  
21       sion;

22               “(iii) a person that is a foreign pro-  
23       ducer or exporter of such covered merchan-  
24       dise; or

1                   “(iv) the government of a country  
2                   from which such covered merchandise was  
3                   exported; and

4                   “(B) conducting verifications, including on-  
5                   site verifications, of any relevant information.

6                   “(3) ADVERSE INFERENCE.—If the Commis-  
7                   sioner finds that a party or person described in  
8                   clause (i), (ii), or (iii) of paragraph (2)(A) has failed  
9                   to cooperate by not acting to the best of the party  
10                  or person’s ability to comply with a request for in-  
11                  formation, the Commissioner may, in making a de-  
12                  termination under paragraph (1), use an inference  
13                  that is adverse to the interests of that party or per-  
14                  son in selecting from among the facts otherwise  
15                  available to make the determination.

16                  “(4) NOTIFICATION.—Not later than 5 business  
17                  days after making a determination under paragraph  
18                  (1) with respect to covered merchandise, the Com-  
19                  missioner—

20                         “(A) shall provide to each interested party  
21                         that filed an allegation under paragraph (2) of  
22                         subsection (b) that resulted in the initiation of  
23                         an investigation under paragraph (1) of that  
24                         subsection with respect to such covered mer-  
25                         chandise a notification of the determination and

1           may, in addition, include an explanation of the  
2           basis for the determination; and

3           “(B) may provide to importers, in such  
4           manner as the Commissioner determines appro-  
5           priate, information discovered in the investiga-  
6           tion that the Commissioner determines will help  
7           educate importers with respect to importing  
8           merchandise into the customs territory of the  
9           United States in accordance with all applicable  
10          laws and regulations.

11       “(d) EFFECT OF DETERMINATIONS.—

12           “(1) IN GENERAL.—If the Commissioner makes  
13          a determination under subsection (c) that covered  
14          merchandise was entered into the customs territory  
15          of the United States through evasion, the Commis-  
16          sioner shall—

17           “(A)(i) suspend the liquidation of unliqui-  
18          dated entries of such covered merchandise that  
19          are subject to the determination and that enter  
20          on or after the date of the initiation of the in-  
21          vestigation under subsection (b) with respect to  
22          such covered merchandise and on or before the  
23          date of the determination; or

24           “(ii) if the Commissioner has already sus-  
25          pended the liquidation of such entries pursuant

1 to subsection (e)(1), continue to suspend the  
2 liquidation of such entries;

3 “(B) pursuant to the Commissioner’s au-  
4 thority under section 504(b)—

5 “(i) extend the period for liquidating  
6 unliquidated entries of such covered mer-  
7 chandise that are subject to the determina-  
8 tion and that entered before the date of  
9 the initiation of the investigation; or

10 “(ii) if the Commissioner has already  
11 extended the period for liquidating such  
12 entries pursuant to subsection (e)(1), con-  
13 tinue to extend the period for liquidating  
14 such entries;

15 “(C) notify the administering authority of  
16 the determination and request that the admin-  
17 istering authority—

18 “(i) identify the applicable anti-  
19 dumping or countervailing duty assessment  
20 rates for entries described in subpara-  
21 graphs (A) and (B); or

22 “(ii) if no such assessment rate for  
23 such an entry is available at the time,  
24 identify the applicable cash deposit rate to  
25 be applied to the entry, with the applicable

1           antidumping or countervailing duty assess-  
2           ment rate to be provided as soon as that  
3           rate becomes available;

4           “(D) require the posting of cash deposits  
5           and assess duties on entries described in sub-  
6           paragraphs (A) and (B) in accordance with the  
7           instructions received from the administering au-  
8           thority under paragraph (2); and

9           “(E) take such additional enforcement  
10          measures as the Commissioner determines ap-  
11          propriate, such as—

12                 “(i) initiating proceedings under sec-  
13                 tion 592 or 596;

14                 “(ii) implementing, in consultation  
15                 with the relevant Federal agencies, rule  
16                 sets or modifications to rules sets for iden-  
17                 tifying, particularly through the Auto-  
18                 mated Targeting System and the Auto-  
19                 mated Commercial Environment author-  
20                 ized under section 13031(f) of the Consoli-  
21                 dated Omnibus Budget Reconciliation Act  
22                 of 1985 (19 U.S.C. 58c(f)), importers,  
23                 other parties, and merchandise that may  
24                 be associated with evasion;

1                   “(iii) requiring, with respect to mer-  
2                   chandise for which the importer has re-  
3                   peatedly provided incomplete or erroneous  
4                   entry summary information in connection  
5                   with determinations of evasion, the im-  
6                   porter to deposit estimated duties at the  
7                   time of entry; and

8                   “(iv) referring the record in whole or  
9                   in part to U.S. Immigration and Customs  
10                  Enforcement for civil or criminal investiga-  
11                  tion.

12                  “(2) COOPERATION OF ADMINISTERING AU-  
13                  THORITY.—

14                  “(A) IN GENERAL.—Upon receiving a noti-  
15                  fication from the Commissioner under para-  
16                  graph (1)(C), the administering authority shall  
17                  promptly provide to the Commissioner the ap-  
18                  plicable cash deposit rates and antidumping or  
19                  countervailing duty assessment rates and any  
20                  necessary liquidation instructions.

21                  “(B) SPECIAL RULE FOR CASES IN WHICH  
22                  THE PRODUCER OR EXPORTER IS UNKNOWN.—  
23                  If the Commissioner and the administering au-  
24                  thority are unable to determine the producer or  
25                  exporter of the merchandise with respect to



1           which a notification is made under paragraph  
2           (1)(C), the administering authority shall iden-  
3           tify, as the applicable cash deposit rate or anti-  
4           dumping or countervailing duty assessment  
5           rate, the cash deposit or duty (as the case may  
6           be) in the highest amount applicable to any  
7           producer or exporter, including the ‘all-others’  
8           rate of the merchandise subject to an anti-  
9           dumping order or countervailing duty order  
10          under section 736 or 706, respectively, or a  
11          finding issued under the Antidumping Act,  
12          1921, or any administrative review conducted  
13          under section 751.

14          “(e) INTERIM MEASURES.—Not later than 90 cal-  
15          endar days after initiating an investigation under sub-  
16          section (b) with respect to covered merchandise, the Com-  
17          missioner shall decide based on the investigation if there  
18          is a reasonable suspicion that such covered merchandise  
19          was entered into the customs territory of the United  
20          States through evasion and, if the Commissioner decides  
21          there is such a reasonable suspicion, the Commissioner  
22          shall—

23                  “(1) suspend the liquidation of each unliqui-  
24          dated entry of such covered merchandise that en-

1       tered on or after the date of the initiation of the in-  
2       vestigation;

3           “(2) pursuant to the Commissioner’s authority  
4       under section 504(b), extend the period for liqui-  
5       dating each unliquidated entry of such covered mer-  
6       chandise that entered before the date of the initi-  
7       ation of the investigation; and

8           “(3) pursuant to the Commissioner’s authority  
9       under section 623, take such additional measures as  
10      the Commissioner determines necessary to protect  
11      the revenue of the United States, including requiring  
12      a single transaction bond or additional security or  
13      the posting of a cash deposit with respect to such  
14      covered merchandise.

15      “(f) ADMINISTRATIVE REVIEW.—

16           “(1) IN GENERAL.—Not later than 30 business  
17      days after the Commissioner makes a determination  
18      under subsection (c) with respect to whether covered  
19      merchandise was entered into the customs territory  
20      of the United States through evasion, a person de-  
21      termined to have entered such covered merchandise  
22      through evasion or an interested party that filed an  
23      allegation under paragraph (2) of subsection (b)  
24      that resulted in the initiation of an investigation  
25      under paragraph (1) of that subsection with respect

1 to such covered merchandise may file an appeal with  
2 the Commissioner for de novo review of the deter-  
3 mination.

4 “(2) TIMELINE FOR REVIEW.—Not later than  
5 60 business days after an appeal of a determination  
6 is filed under paragraph (1), the Commissioner shall  
7 complete the review of the determination.

8 “(g) JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—Not later than 30 business  
10 days after the Commissioner completes a review  
11 under subsection (f) of a determination under sub-  
12 section (c) with respect to whether covered merchan-  
13 dise was entered into the customs territory of the  
14 United States through evasion, a person determined  
15 to have entered such covered merchandise through  
16 evasion or an interested party that filed an allega-  
17 tion under paragraph (2) of subsection (b) that re-  
18 sulted in the initiation of an investigation under  
19 paragraph (1) of that subsection with respect to  
20 such covered merchandise may commence a civil ac-  
21 tion in the United States Court of International  
22 Trade by filing concurrently a summons and com-  
23 plaint contesting any factual findings or legal con-  
24 clusions upon which the determination is based.

1           “(2) STANDARD OF REVIEW.—In a civil action  
2           under this subsection, the court shall hold unlawful  
3           any determination, finding, or conclusion found to be  
4           arbitrary, capricious, an abuse of discretion, or oth-  
5           erwise not in accordance with law.

6           “(h) RULE OF CONSTRUCTION WITH RESPECT TO  
7 OTHER CIVIL AND CRIMINAL PROCEEDINGS AND INVES-  
8 TIGATIONS.—No determination under subsection (c) or ac-  
9 tion taken by the Commissioner pursuant to this section  
10 shall be construed to limit the authority to carry out, or  
11 the scope of, any other proceeding or investigation pursu-  
12 ant to any other provision of Federal or State law, includ-  
13 ing sections 592 and 596.”.

14           (b) CONFORMING AMENDMENT.—Section 1581(c) of  
15 title 28, United States Code, is amended by inserting “or  
16 517” after “516A”.

17           (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the date that is 180 days  
19 after the date of the enactment of this Act.

20           (d) REGULATIONS.—Not later than the date that is  
21 180 days after the date of the enactment of this Act, the  
22 Secretary of the Treasury shall prescribe such regulations  
23 as may be necessary to implement the amendments made  
24 by this section.

1 (e) APPLICATION TO CANADA AND MEXICO.—Pursu-  
2 ant to article 1902 of the North American Free Trade  
3 Agreement and section 408 of the North American Free  
4 Trade Agreement Implementation Act (19 U.S.C. 3438),  
5 the amendments made by this section shall apply with re-  
6 spect to goods from Canada and Mexico.

7 **SEC. 403. ANNUAL REPORT ON PREVENTION AND INVES-**  
8 **TIGATION OF EVASION OF ANTIDUMPING**  
9 **AND COUNTERVAILING DUTY ORDERS.**

10 (a) IN GENERAL.—Not later than January 15 of  
11 each calendar year that begins on or after the date that  
12 is 270 days after the date of the enactment of this Act,  
13 the Commissioner, in consultation with the Secretary of  
14 Commerce and the Director of U.S. Immigration and Cus-  
15 toms Enforcement, shall submit to the Committee on Fi-  
16 nance of the Senate and the Committee on Ways and  
17 Means of the House of Representatives a report on the  
18 efforts being taken to prevent and investigate the entry  
19 of covered merchandise into the customs territory of the  
20 United States through evasion.

21 (b) CONTENTS.—Each report required under sub-  
22 section (a) shall include—

23 (1) for the calendar year preceding the submis-  
24 sion of the report—

1 (A) a summary of the efforts of U.S. Cus-  
2 toms and Border Protection to prevent and in-  
3 vestigate the entry of covered merchandise into  
4 the customs territory of the United States  
5 through evasion;

6 (B) the number of allegations of evasion  
7 received under subsection (b) of section 517 of  
8 the Tariff Act of 1930, as added by section 402  
9 of this Act, and the number of such allegations  
10 resulting in investigations by U.S. Customs and  
11 Border Protection or any other agency;

12 (C) a summary of investigations initiated  
13 under subsection (b) of such section 517, in-  
14 cluding—

15 (i) the number and nature of the in-  
16 vestigations initiated, conducted, and com-  
17 pleted; and

18 (ii) the resolution of each completed  
19 investigation;

20 (D) the number of investigations initiated  
21 under that subsection not completed during the  
22 time provided for making determinations under  
23 subsection (c) of such section 517 and an expla-  
24 nation for why the investigations could not be  
25 completed on time;

1           (E) the amount of additional duties that  
2 were determined to be owed as a result of such  
3 investigations, the amount of such duties that  
4 were collected, and, for any such duties not col-  
5 lected, a description of the reasons those duties  
6 were not collected;

7           (F) with respect to each such investigation  
8 that led to the imposition of a penalty, the  
9 amount of the penalty;

10           (G) an identification of the countries of or-  
11 igin of covered merchandise determined under  
12 subsection (c) of such section 517 to be entered  
13 into the customs territory of the United States  
14 through evasion;

15           (H) the amount of antidumping and coun-  
16 tervailing duties collected as a result of any in-  
17 vestigations or other actions by U.S. Customs  
18 and Border Protection or any other agency;

19           (I) a description of the allocation of per-  
20 sonnel and other resources of U.S. Customs and  
21 Border Protection and U.S. Immigration and  
22 Customs Enforcement to prevent and inves-  
23 tigate evasion, including any assessments con-  
24 ducted regarding the allocation of such per-  
25 sonnel and resources; and

1           (J) a description of training conducted to  
2           increase expertise and effectiveness in the pre-  
3           vention and investigation of evasion; and

4           (2) a description of processes and procedures of  
5           U.S. Customs and Border Protection to prevent and  
6           investigate evasion, including—

7           (A) the specific guidelines, policies, and  
8           practices used by U.S. Customs and Border  
9           Protection to ensure that allegations of evasion  
10          are promptly evaluated and acted upon in a  
11          timely manner;

12          (B) an evaluation of the efficacy of those  
13          guidelines, policies, and practices;

14          (C) an identification of any changes since  
15          the last report required by this section, if any,  
16          that have materially improved or reduced the  
17          effectiveness of U.S. Customs and Border Pro-  
18          tection in preventing and investigating evasion;

19          (D) a description of the development and  
20          implementation of policies for the application of  
21          single entry and continuous bonds for entries of  
22          covered merchandise to sufficiently protect the  
23          collection of antidumping and countervailing  
24          duties commensurate with the level of risk of  
25          not collecting those duties;



1           (E) a description of the processes and pro-  
2           cedures for increased cooperation and informa-  
3           tion sharing with the Department of Commerce,  
4           U.S. Immigration and Customs Enforcement,  
5           and any other relevant Federal agencies to pre-  
6           vent and investigate evasion; and

7           (F) an identification of any recommended  
8           policy changes for other Federal agencies or  
9           legislative changes to improve the effectiveness  
10          of U.S. Customs and Border Protection in pre-  
11          venting and investigating evasion.

12          (c) PUBLIC SUMMARY.—The Commissioner shall  
13          make available to the public a summary of the report re-  
14          quired by subsection (a) that includes, at a minimum—

15               (1) a description of the type of merchandise  
16               with respect to which investigations were initiated  
17               under subsection (b) of section 517 of the Tariff Act  
18               of 1930, as added by section 402 of this Act;

19               (2) the amount of additional duties determined  
20               to be owed as a result of such investigations and the  
21               amount of such duties that were collected;

22               (3) an identification of the countries of origin  
23               of covered merchandise determined under subsection  
24               (c) of such section 517 to be entered into the cus-

1       toms territory of the United States through evasion;  
2       and

3               (4) a description of the types of measures used  
4       by U.S. Customs and Border Protection to prevent  
5       and investigate evasion.

6       (d) DEFINITIONS.—In this section, the terms “cov-  
7       ered merchandise” and “evasion” have the meanings given  
8       those terms in section 517(a) of the Tariff Act of 1930,  
9       as added by section 402 of this Act.

10 **TITLE V—ADDITIONAL TRADE**  
11 **ENFORCEMENT AND INTEL-**  
12 **LECTUAL PROPERTY RIGHTS**  
13 **PROTECTION**

14 **Subtitle A—Trade Enforcement**

15 **SEC. 501. TRADE ENFORCEMENT PRIORITIES.**

16       (a) IN GENERAL.—Section 310 of the Trade Act of  
17 1974 (19 U.S.C. 2420) is amended to read as follows:

18 **“SEC. 310. TRADE ENFORCEMENT PRIORITIES.**

19       “(a) TRADE ENFORCEMENT PRIORITIES, CONSULTA-  
20 TIONS, AND REPORT.—

21               “(1) TRADE ENFORCEMENT PRIORITIES CON-  
22 SULTATIONS.—Not later than May 31 of each cal-  
23 endar year that begins after the date of the enact-  
24 ment of the Trade Facilitation and Trade Enforce-  
25 ment Act of 2015, the United States Trade Rep-

1       representative (in this section referred to as the ‘Trade  
2       Representative’) shall consult with the Committee on  
3       Finance of the Senate and the Committee on Ways  
4       and Means of the House of Representatives with re-  
5       spect to the prioritization of acts, policies, or prac-  
6       tices of foreign governments that raise concerns with  
7       respect to obligations under the WTO Agreements or  
8       any other trade agreement to which the United  
9       States is a party, or otherwise create or maintain  
10      barriers to United States goods, services, or invest-  
11      ment.

12           “(2) IDENTIFICATION OF TRADE ENFORCE-  
13      MENT PRIORITIES.—In identifying acts, policies, or  
14      practices of foreign governments as trade enforce-  
15      ment priorities under this subsection, the United  
16      States Trade Representative shall focus on those  
17      acts, policies, and practices the elimination of which  
18      is likely to have the most significant potential to in-  
19      crease United States economic growth, and take into  
20      account all relevant factors, including—

21           “(A) the economic significance of any po-  
22      tential inconsistency between an obligation as-  
23      sumed by a foreign government pursuant to a  
24      trade agreement to which both the foreign gov-  
25      ernment and the United States are parties and

1 the acts, policies, or practices of that govern-  
2 ment;

3 “(B) the impact of the acts, policies, or  
4 practices of a foreign government on maintain-  
5 ing and creating United States jobs and pro-  
6 ductive capacity;

7 “(C) the major barriers and trade dis-  
8 torting practices described in the most recent  
9 National Trade Estimate required under section  
10 181(b);

11 “(D) the major barriers and trade dis-  
12 torting practices described in other relevant re-  
13 ports addressing international trade and invest-  
14 ment barriers prepared by a Federal agency or  
15 congressional commission during the 12 months  
16 preceding the date of the most recent report  
17 under paragraph (3);

18 “(E) a foreign government’s compliance  
19 with its obligations under any trade agreements  
20 to which both the foreign government and the  
21 United States are parties;

22 “(F) the implications of a foreign govern-  
23 ment’s procurement plans and policies; and

1           “(G) the international competitive position  
2           and export potential of United States products  
3           and services.

4           “(3) REPORT ON TRADE ENFORCEMENT PRIOR-  
5           ITIES AND ACTIONS TAKEN TO ADDRESS.—

6           “(A) IN GENERAL.—Not later than July  
7           31 of each calendar year that begins after the  
8           date of the enactment of the Trade Facilitation  
9           and Trade Enforcement Act of 2015, the Trade  
10          Representative shall report to the Committee on  
11          Finance of the Senate and the Committee on  
12          Ways and Means of the House of Representa-  
13          tives on acts, policies, or practices of foreign  
14          governments identified as trade enforcement  
15          priorities based on the consultations under  
16          paragraph (1) and the criteria set forth in  
17          paragraph (2).

18          “(B) REPORT IN SUBSEQUENT YEARS.—  
19          The Trade Representative shall include, when  
20          reporting under subparagraph (A) in any cal-  
21          endar year after the calendar year that begins  
22          after the date of the enactment of the Trade  
23          Facilitation and Trade Enforcement Act of  
24          2015, a description of actions taken to address  
25          any acts, policies, or practices of foreign gov-

1 ernments identified as trade enforcement prior-  
2 ities under this subsection in the calendar year  
3 preceding that report and, as relevant, any year  
4 before that calendar year.

5 “(b) SEMI-ANNUAL ENFORCEMENT CONSULTA-  
6 TIONS.—

7 “(1) IN GENERAL.—At the same time as the re-  
8 porting under subsection (a)(3), and not later than  
9 January 31 of each following year, the Trade Rep-  
10 resentative shall consult with the Committee on Fi-  
11 nance of the Senate and the Committee on Ways  
12 and Means of the House of Representatives with re-  
13 spect to the identification, prioritization, investiga-  
14 tion, and resolution of acts, policies, or practices of  
15 foreign governments of concern with respect to obli-  
16 gations under the WTO Agreements or any other  
17 trade agreement to which the United States is a  
18 party, or that otherwise create or maintain trade  
19 barriers.

20 “(2) ACTS, POLICIES, OR PRACTICES OF CON-  
21 CERN.—The semi-annual enforcement consultations  
22 required by paragraph (1) shall address acts, poli-  
23 cies, or practices of foreign governments that raise  
24 concerns with respect to obligations under the WTO  
25 Agreements or any other trade agreement to which

1 the United States is a party, or otherwise create or  
2 maintain trade barriers, including—

3 “(A) engagement with relevant trading  
4 partners;

5 “(B) strategies for addressing such con-  
6 cerns;

7 “(C) availability and deployment of re-  
8 sources to be used in the investigation or reso-  
9 lution of such concerns;

10 “(D) the merits of any potential dispute  
11 resolution proceeding under the WTO Agree-  
12 ments or any other trade agreement to which  
13 the United States is a party relating to such  
14 concerns; and

15 “(E) any other aspects of such concerns.

16 “(3) ACTIVE INVESTIGATIONS.—The semi-an-  
17 nual enforcement consultations required by para-  
18 graph (1) shall address acts, policies, or practices  
19 that the Trade Representative is actively inves-  
20 tigating with respect to obligations under the WTO  
21 Agreements or any other trade agreement to which  
22 the United States is a party, including—

23 “(A) strategies for addressing concerns  
24 raised by such acts, policies, or practices;

1           “(B) any relevant timeline with respect to  
2           investigation of such acts, policies, or practices;

3           “(C) the merits of any potential dispute  
4           resolution proceeding under the WTO Agree-  
5           ments or any other trade agreement to which  
6           the United States is a party with respect to  
7           such acts, policies, or practices;

8           “(D) barriers to the advancement of the  
9           investigation of such acts, policies, or practices;  
10          and

11          “(E) any other matters relating to the in-  
12          vestigation of such acts, policies, or practices.

13          “(4) ONGOING ENFORCEMENT ACTIONS.—The  
14          semi-annual enforcement consultations required by  
15          paragraph (1) shall address all ongoing enforcement  
16          actions taken by or against the United States with  
17          respect to obligations under the WTO Agreements or  
18          any other trade agreement to which the United  
19          States is a party, including—

20                 “(A) any relevant timeline with respect to  
21                 such actions;

22                 “(B) the merits of such actions;

23                 “(C) any prospective implementation ac-  
24                 tions;



1           “(D) potential implications for any law or  
2 regulation of the United States;

3           “(E) potential implications for United  
4 States stakeholders, domestic competitors, and  
5 exporters; and

6           “(F) other issues relating to such actions.

7           “(5) ENFORCEMENT RESOURCES.—The semi-  
8 annual enforcement consultations required by para-  
9 graph (1) shall address the availability and deploy-  
10 ment of enforcement resources, resource constraints  
11 on monitoring and enforcement activities, and strat-  
12 egies to address those constraints, including the use  
13 of available resources of other Federal agencies to  
14 enhance monitoring and enforcement capabilities.

15          “(c) INVESTIGATION AND RESOLUTION.—In the case  
16 of any acts, policies, or practices of a foreign government  
17 identified as a trade enforcement priority under subsection  
18 (a), the Trade Representative shall, not later than the date  
19 of the first semi-annual enforcement consultations held  
20 under subsection (b) after the identification of the pri-  
21 ority, take appropriate action to address that priority, in-  
22 cluding—

23           “(1) engagement with the foreign government  
24 to resolve concerns raised by such acts, policies, or  
25 practices;

1           “(2) initiation of an investigation under section  
2           302(b)(1) with respect to such acts, policies, or  
3           practices;

4           “(3) initiation of negotiations for a bilateral  
5           agreement that provides for resolution of concerns  
6           raised by such acts, policies, or practices; or

7           “(4) initiation of dispute settlement proceedings  
8           under the WTO Agreements or any other trade  
9           agreement to which the United States is a party  
10          with respect to such acts, policies, or practices.

11          “(d) ENFORCEMENT NOTIFICATIONS AND CON-  
12          SULTATION.—

13                 “(1) INITIATION OF ENFORCEMENT ACTION.—

14           The Trade Representative shall notify and consult  
15           with the Committee on Finance of the Senate and  
16           the Committee on Ways and Means of the House of  
17           Representatives in advance of initiation of any for-  
18           mal trade dispute by or against the United States  
19           taken in regard to an obligation under the WTO  
20           Agreements or any other trade agreement to which  
21           the United States is a party. With respect to a for-  
22           mal trade dispute against the United States, if ad-  
23           vance notification and consultation are not possible,  
24           the Trade Representative shall notify and consult at

1 the earliest practicable opportunity after initiation of  
2 the dispute.

3 “(2) CIRCULATION OF REPORTS.—The Trade  
4 Representative shall notify and consult with the  
5 Committee on Finance of the Senate and the Com-  
6 mittee on Ways and Means of the House of Rep-  
7 resentatives in advance of the announced or antici-  
8 pated circulation of any report of a dispute settle-  
9 ment panel or the Appellate Body of the World  
10 Trade Organization or of a dispute settlement panel  
11 under any other trade agreement to which the  
12 United States is a party with respect to a formal  
13 trade dispute by or against the United States.

14 “(e) DEFINITIONS.—In this section:

15 “(1) WTO.—The term ‘WTO’ means the World  
16 Trade Organization.

17 “(2) WTO AGREEMENT.—The term ‘WTO  
18 Agreement’ has the meaning given that term in sec-  
19 tion 2(9) of the Uruguay Round Agreements Act (19  
20 U.S.C. 3501(9)).

21 “(3) WTO AGREEMENTS.—The term ‘WTO  
22 Agreements’ means the WTO Agreement and agree-  
23 ments annexed to that Agreement.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for the Trade Act of 1974 is amended by striking the item  
3 relating to section 310 and inserting the following:

“Sec. 310. Trade enforcement priorities.”.

4 **SEC. 502. EXERCISE OF WTO AUTHORIZATION TO SUSPEND**  
5 **CONCESSIONS OR OTHER OBLIGATIONS**  
6 **UNDER TRADE AGREEMENTS.**

7 (a) IN GENERAL.—Section 306 of the Trade Act of  
8 1974 (19 U.S.C. 2416) is amended—

9 (1) by redesignating subsection (c) as sub-  
10 section (d); and

11 (2) by inserting after subsection (b) the fol-  
12 lowing:

13 “(c) EXERCISE OF WTO AUTHORIZATION TO SUS-  
14 PEND CONCESSIONS OR OTHER OBLIGATIONS.—If—

15 “(1) action has terminated pursuant to section  
16 307(c),

17 “(2) the petitioner or any representative of the  
18 domestic industry that would benefit from reinstatement  
19 of action has submitted to the Trade Rep-  
20 resentative a written request for reinstatement of ac-  
21 tion, and

22 “(3) the Trade Representatives has completed  
23 the requirements of subsection (d) and section  
24 307(c)(3),

1 the Trade Representative may at any time determine to  
2 take action under section 301(c) to exercise an authoriza-  
3 tion to suspend concessions or other obligations under Ar-  
4 ticle 22 of the Understanding on Rules and Procedures  
5 Governing the Settlement of Disputes (referred to in sec-  
6 tion 101(d)(16) of the Uruguay Round Agreements Act  
7 (19 U.S.C. 3511(d)(16))).”.

8 (b) CONFORMING AMENDMENTS.—Chapter 1 of title  
9 III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.)  
10 is amended—

11 (1) in section 301(c)(1) (19 U.S.C. 2411(c)(1)),  
12 in the matter preceding subparagraph (A), by insert-  
13 ing “or section 306(c)” after “subsection (a) or  
14 (b)”;

15 (2) in section 306(b) (19 U.S.C. 2416(b)), in  
16 the subsection heading, by striking “FURTHER AC-  
17 TION” and inserting “ACTION ON THE BASIS OF  
18 MONITORING”;

19 (3) in section 306(d) (19 U.S.C. 2416(d)), as  
20 redesignated by subsection (a)(1), by inserting “or  
21 (c)” after “subsection (b)”;

22 (4) in section 307(c)(3) (19 U.S.C. 2417(c)(3)),  
23 by inserting “or if a request is submitted to the  
24 Trade Representative under 306(c)(2) to reinstate  
25 action,” after “under section 301,”.

1 **SEC. 503. TRADE MONITORING.**

2 (a) IN GENERAL.—Chapter 1 of title II of the Trade  
3 Act of 1974 (19 U.S.C. 2251 et seq.) is amended by add-  
4 ing at the end the following:

5 **“SEC. 205. TRADE MONITORING.**

6 “(a) MONITORING TOOL FOR IMPORTS.—

7 “(1) IN GENERAL.—Not later than 180 days  
8 after the date of the enactment of this section, the  
9 United States International Trade Commission shall  
10 make available on a website of the Commission an  
11 import monitoring tool to allow the public access to  
12 data on the volume and value of goods imported into  
13 the United States for the purpose of assessing  
14 whether such data has changed with respect to such  
15 goods over a period of time.

16 “(2) DATA DESCRIBED.—For purposes of the  
17 monitoring tool under paragraph (1), the Commis-  
18 sion shall use data compiled by the Department of  
19 Commerce and such other government data as the  
20 Commission considers appropriate.

21 “(3) PERIODS OF TIME.—The Commission shall  
22 ensure that data accessed through the monitoring  
23 tool under paragraph (1) includes data for the most  
24 recent quarter for which such data are available and  
25 previous quarters as the Commission considers prac-  
26 ticable.

1 “(b) MONITORING REPORTS.—

2 “(1) IN GENERAL.—Not later than 270 days  
3 after the date of the enactment of this section, and  
4 not less frequently than quarterly thereafter, the  
5 Secretary of Commerce shall publish on a website of  
6 the Department of Commerce, and notify the Com-  
7 mittee on Finance of the Senate and the Committee  
8 on Ways and Means of the House of Representatives  
9 of the availability of, a monitoring report on changes  
10 in the volume and value of trade with respect to im-  
11 ports and exports of goods categorized based on the  
12 6-digit subheading number of the goods under the  
13 Harmonized Tariff Schedule of the United States  
14 during the most recent quarter for which such data  
15 are available and previous quarters as the Secretary  
16 considers practicable.

17 “(2) REQUESTS FOR COMMENT.—Not later  
18 than one year after the date of the enactment of this  
19 section, the Secretary of Commerce shall solicit  
20 through the Federal Register public comment on the  
21 monitoring reports described in paragraph (1).

22 “(c) SUNSET.—The requirements under this section  
23 terminate on the date that is 7 years after the date of  
24 the enactment of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is  
3 amended by inserting after the item relating to section  
4 204 the following:

“Sec. 205. Trade monitoring.”.

5 **SEC. 504. HONEY TRANSSHIPMENT.**

6 (a) IN GENERAL.—The Commissioner shall direct ap-  
7 propriate personnel and resources of U.S. Customs and  
8 Border Protection to address concerns that honey is being  
9 imported into the United States in violation of the customs  
10 and trade laws of the United States.

11 (b) COUNTRY OF ORIGIN.—

12 (1) IN GENERAL.—The Commissioner shall  
13 compile a database of the individual characteristics  
14 of honey produced in foreign countries to facilitate  
15 the verification of country of origin markings of im-  
16 ported honey.

17 (2) ENGAGEMENT WITH FOREIGN GOVERN-  
18 MENTS.—The Commissioner shall seek to engage the  
19 customs agencies of foreign governments for assist-  
20 ance in compiling the database described in para-  
21 graph (1).

22 (3) CONSULTATION WITH INDUSTRY.—In com-  
23 piling the database described in paragraph (1), the  
24 Commissioner shall consult with entities in the



1 honey industry regarding the development of indus-  
2 try standards for honey identification.

3 (4) CONSULTATION WITH FOOD AND DRUG AD-  
4 MINISTRATION.—In compiling the database de-  
5 scribed in paragraph (1), the Commissioner shall  
6 consult with the Commissioner of Food and Drugs.

7 (c) REPORT REQUIRED.—Not later than 180 days  
8 after the date of the enactment of this Act, the Commis-  
9 sioner shall submit to Congress a report that—

10 (1) describes and assesses the limitations in the  
11 existing analysis capabilities of laboratories with re-  
12 spect to determining the country of origin of honey  
13 samples or the percentage of honey contained in a  
14 sample; and

15 (2) includes any recommendations of the Com-  
16 missioner for improving such capabilities.

17 (d) SENSE OF CONGRESS.—It is the sense of Con-  
18 gress that the Commissioner of Food and Drugs should  
19 promptly establish a national standard of identity for  
20 honey for the Commissioner responsible for U.S. Customs  
21 and Border Protection to use to ensure that imports of  
22 honey are—

23 (1) classified accurately for purposes of assess-  
24 ing duties; and

1           (2) denied entry into the United States if such  
2           imports pose a threat to the health or safety of con-  
3           sumers in the United States.

4 **SEC. 505. ILLICITLY IMPORTED, EXPORTED, OR TRAF-**  
5 **FICKED CULTURAL PROPERTY, ARCHAEO-**  
6 **LOGICAL OR ETHNOLOGICAL MATERIALS,**  
7 **AND FISH, WILDLIFE, AND PLANTS.**

8           (a) IN GENERAL.—The Commissioner and the Direc-  
9           tor of U.S. Immigration and Customs Enforcement shall  
10           ensure that appropriate personnel of U.S. Customs and  
11           Border Protection and U.S. Immigration and Customs  
12           Enforcement, as the case may be, are trained in the detec-  
13           tion, identification, detention, seizure, and forfeiture of  
14           cultural property, archaeological or ethnological materials,  
15           and fish, wildlife, and plants, the importation, exportation,  
16           or trafficking of which violates the laws of the United  
17           States.

18           (b) TRAINING.—The Commissioner and the Director  
19           are authorized to accept training and other support serv-  
20           ices from experts outside of the Federal Government with  
21           respect to the detection, identification, detention, seizure,  
22           and forfeiture of cultural property, archaeological or eth-  
23           nological materials, or fish, wildlife, and plants described  
24           in subsection (a).

1     **Subtitle B—Intellectual Property**  
2                     **Rights Protection**

3     **SEC. 511. ESTABLISHMENT OF CHIEF INNOVATION AND IN-**  
4                     **TELLECTUAL PROPERTY NEGOTIATOR.**

5             (a) IN GENERAL.—Section 141 of the Trade Act of  
6 1974 (19 U.S.C. 2171) is amended—

7                     (1) in subsection (b), by striking paragraph (2)  
8             and inserting the following:

9             “(2) There shall be in the Office three Deputy United  
10 States Trade Representatives, one Chief Agricultural Ne-  
11 gotiator, and one Chief Innovation and Intellectual Prop-  
12 erty Negotiator, who shall be appointed by the President,  
13 by and with the advice and consent of the Senate. As an  
14 exercise of the rulemaking power of the Senate, any nomi-  
15 nation of a Deputy United States Trade Representative,  
16 the Chief Agricultural Negotiator, or the Chief Innovation  
17 and Intellectual Property Negotiator submitted to the  
18 Senate for its advice and consent, and referred to a com-  
19 mittee, shall be referred to the Committee on Finance.  
20 Each Deputy United States Trade Representative, the  
21 Chief Agricultural Negotiator, and the Chief Innovation  
22 and Intellectual Property Negotiator shall hold office at  
23 the pleasure of the President and shall have the rank of  
24 Ambassador.”; and

25                     (2) in subsection (c)—

1 (A) by moving paragraph (5) two ems to  
2 the left; and

3 (B) by adding at the end the following:

4 “(6) The principal functions of the Chief Innovation  
5 and Intellectual Property Negotiator shall be to conduct  
6 trade negotiations and to enforce trade agreements relat-  
7 ing to United States intellectual property and to take ap-  
8 propriate actions to address acts, policies, and practices  
9 of foreign governments that have a significant adverse im-  
10 pact on the value of United States innovation. The Chief  
11 Innovation and Intellectual Property Negotiator shall be  
12 a vigorous advocate on behalf of United States innovation  
13 and intellectual property interests. The Chief Innovation  
14 and Intellectual Property Negotiator shall perform such  
15 other functions as the United States Trade Representative  
16 may direct.”.

17 (b) COMPENSATION.—Section 5314 of title 5, United  
18 States Code, is amended by striking “Chief Agricultural  
19 Negotiator.” and inserting the following:

20 “Chief Agricultural Negotiator, Office of the United  
21 States Trade Representative.

22 “Chief Innovation and Intellectual Property Nego-  
23 tiator, Office of the United States Trade Representative.”.

24 (c) REPORT REQUIRED.—Not later than one year  
25 after the appointment of the first Chief Innovation and

1 Intellectual Property Negotiator pursuant to paragraph  
2 (2) of section 141(b) of the Trade Act of 1974, as amend-  
3 ed by subsection (a), and annually thereafter, the United  
4 States Trade Representative shall submit to the Com-  
5 mittee on Finance of the Senate and the Committee on  
6 Ways and Means of the House of Representatives a report  
7 describing in detail—

8           (1) enforcement actions taken by the Trade  
9       Representative during the year preceding the sub-  
10      mission of the report to ensure the protection of  
11      United States innovation and intellectual property  
12      interests; and

13           (2) other actions taken by the Trade Represent-  
14      ative to advance United States innovation and intel-  
15      lectual property interests.

16 **SEC. 512. MEASURES RELATING TO COUNTRIES THAT DENY**  
17                   **ADEQUATE PROTECTION FOR INTELLECTUAL**  
18                   **PROPERTY RIGHTS.**

19       (a) INCLUSION OF COUNTRIES THAT DENY ADE-  
20      QUATE PROTECTION OF TRADE SECRETS.—Section  
21      182(d)(2) of the Trade Act of 1974 (19 U.S.C.  
22      2242(d)(2)) is amended by inserting “, trade secrets,”  
23      after “copyrights”.

1 (b) SPECIAL RULES FOR COUNTRIES ON THE PRI-  
2 ORITY WATCH LIST OF THE UNITED STATES TRADE  
3 REPRESENTATIVE.—

4 (1) IN GENERAL.—Section 182 of the Trade  
5 Act of 1974 (19 U.S.C. 2242) is amended by strik-  
6 ing subsection (g) and inserting the following:

7 “(g) SPECIAL RULES FOR FOREIGN COUNTRIES ON  
8 THE PRIORITY WATCH LIST.—

9 “(1) ACTION PLANS.—

10 “(A) IN GENERAL.—Not later than 90  
11 days after the date on which the Trade Rep-  
12 resentative submits the National Trade Esti-  
13 mate under section 181(b), the Trade Rep-  
14 resentative shall develop an action plan de-  
15 scribed in subparagraph (C) with respect to  
16 each foreign country described in subparagraph  
17 (B).

18 “(B) FOREIGN COUNTRY DESCRIBED.—  
19 The Trade Representative shall develop an ac-  
20 tion plan pursuant to subparagraph (A) with  
21 respect to each foreign country that—

22 “(i) the Trade Representative has  
23 identified for placement on the priority  
24 watch list; and

1                   “(ii) has remained on such list for at  
2                   least 1 year.

3                   “(C) ACTION PLAN DESCRIBED.—An ac-  
4                   tion plan developed pursuant to subparagraph  
5                   (A) shall contain the benchmarks described in  
6                   subparagraph (D) and be designed to assist the  
7                   foreign country—

8                   “(i) to achieve—

9                   “(I) adequate and effective pro-  
10                  tection of intellectual property rights;  
11                  and

12                  “(II) fair and equitable market  
13                  access for United States persons that  
14                  rely upon intellectual property protec-  
15                  tion; or

16                  “(ii) to make significant progress to-  
17                  ward achieving the goals described in  
18                  clause (i).

19                  “(D) BENCHMARKS DESCRIBED.—The  
20                  benchmarks contained in an action plan devel-  
21                  oped pursuant to subparagraph (A) are such  
22                  legislative, institutional, enforcement, or other  
23                  actions as the Trade Representative determines  
24                  to be necessary for the foreign country to

1           achieve the goals described in clause (i) or (ii)  
2           of subparagraph (C).

3           “(2) FAILURE TO MEET ACTION PLAN BENCH-  
4           MARKS.—If, 1 year after the date on which an ac-  
5           tion plan is developed under paragraph (1)(A), the  
6           President, in consultation with the Trade Represent-  
7           ative, determines that the foreign country to which  
8           the action plan applies has not substantially com-  
9           plied with the benchmarks described in paragraph  
10          (1)(D), the President may take appropriate action  
11          with respect to the foreign country.

12          “(3) PRIORITY WATCH LIST DEFINED.—In this  
13          subsection, the term ‘priority watch list’ means the  
14          priority watch list established by the Trade Rep-  
15          resentative.

16          “(h) ANNUAL REPORT.—Not later than 30 days after  
17          the date on which the Trade Representative submits the  
18          National Trade Estimate under section 181(b), the Trade  
19          Representative shall transmit to the Committee on Ways  
20          and Means of the House of Representatives and the Com-  
21          mittee on Finance of the Senate a report on actions taken  
22          under this section during the 12 months preceding such  
23          report, and the reasons for such actions, including—

24                 “(1) any foreign countries identified under sub-  
25                 section (a);



1           “(2) a description of progress made in achiev-  
2           ing improved intellectual property protection and  
3           market access for persons relying on intellectual  
4           property rights; and

5           “(3) a description of the action plans developed  
6           under subsection (g) and any actions taken by for-  
7           eign countries under such plans.”.

8           (2) AUTHORIZATION OF APPROPRIATIONS.—

9           (A) IN GENERAL.—There are authorized to  
10           be appropriated to the Office of the United  
11           States Trade Representative such sums as may  
12           be necessary to provide assistance to any devel-  
13           oping country to which an action plan applies  
14           under section 182(g) of the Trade Act of 1974,  
15           as amended by paragraph (1), to facilitate the  
16           efforts of the developing country to comply with  
17           the benchmarks contained in the action plan.  
18           Such assistance may include capacity building,  
19           activities designed to increase awareness of in-  
20           tellectual property rights, and training for offi-  
21           cials responsible for enforcing intellectual prop-  
22           erty rights in the developing country.

23           (B) DEVELOPING COUNTRY DEFINED.—In  
24           this paragraph, the term “developing country”  
25           means a country classified by the World Bank

1           as having a low-income or lower-middle-income  
2           economy.

3           (3) **RULE OF CONSTRUCTION.**—Nothing in this  
4           subsection shall be construed as limiting the author-  
5           ity of the President or the United States Trade Rep-  
6           resentative to develop action plans other than action  
7           plans described in section 182(g) of the Trade Act  
8           of 1974, as amended by paragraph (1), or to take  
9           any action otherwise authorized by law in response  
10          to the failure of a foreign country to provide ade-  
11          quate and effective protection and enforcement of in-  
12          tellectual property rights.

13           **TITLE VI—MISCELLANEOUS**  
14           **PROVISIONS**

15          **SEC. 601. DE MINIMIS VALUE.**

16          (a) **DE MINIMIS VALUE.**—Section 321(a)(2)(C) of  
17          the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is  
18          amended by striking “\$200” and inserting “\$800”.

19          (b) **EFFECTIVE DATE.**—The amendment made by  
20          subsection (a) shall apply with respect to articles entered,  
21          or withdrawn from warehouse for consumption, on or after  
22          the 15th day after the date of the enactment of this Act.

1 **SEC. 602. CONSULTATION ON TRADE AND CUSTOMS REV-**  
2 **ENUE FUNCTIONS.**

3 Section 401(c) of the Safety and Accountability for  
4 Every Port Act (6 U.S.C. 115(c)) is amended—

5 (1) in paragraph (1), by striking “on Depart-  
6 ment policies and actions that have” and inserting  
7 “not later than 30 days after proposing, and not  
8 later than 30 days before finalizing, any Department  
9 policies, initiatives, or actions that will have”; and

10 (2) in paragraph (2)(A), by striking “not later  
11 than 30 days prior to the finalization of” and insert-  
12 ing “not later than 60 days before proposing, and  
13 not later than 60 days before finalizing.”

14 **SEC. 603. PENALTIES FOR CUSTOMS BROKERS.**

15 (a) IN GENERAL.—Section 641(d)(1) of the Tariff  
16 Act of 1930 (19 U.S.C. 1641(d)(1)) is amended—

17 (1) in subparagraph (E), by striking “; or” and  
18 inserting a semicolon;

19 (2) in subparagraph (F), by striking the period  
20 and inserting “; or”; and

21 (3) by adding at the end the following:

22 “(G) has been convicted of committing or  
23 conspiring to commit an act of terrorism de-  
24 scribed in section 2332b of title 18, United  
25 States Code.”

1 (b) TECHNICAL AMENDMENTS.—Section 641 of the  
2 Tariff Act of 1930 (19 U.S.C. 1641) is amended—

3 (1) by striking “the Customs Service” each  
4 place it appears and inserting “U.S. Customs and  
5 Border Protection”;

6 (2) in subsection (d)(2)(B), by striking “The  
7 Customs Service” and inserting “U.S. Customs and  
8 Border Protection”; and

9 (3) in subsection (g)(2)(B), by striking “Sec-  
10 retary’s notice” and inserting “notice under sub-  
11 paragraph (A)”.

12 **SEC. 604. AMENDMENTS TO CHAPTER 98 OF THE HAR-**  
13 **MONIZED TARIFF SCHEDULE OF THE UNITED**  
14 **STATES.**

15 (a) ARTICLES EXPORTED AND RETURNED, AD-  
16 VANCED OR IMPROVED ABROAD.—

17 (1) IN GENERAL.—U.S. Note 3 to subchapter  
18 II of chapter 98 of the Harmonized Tariff Schedule  
19 of the United States is amended by adding at the  
20 end the following:

21 “(f)(1) For purposes of subheadings 9802.00.40 and  
22 9802.00.50, fungible articles exported from the United  
23 States for the purposes described in such subheadings—

24 “(A) may be commingled; and

1           “(B) the origin, value, and classification of such  
2           articles may be accounted for using an inventory  
3           management method.

4           “(2) If a person chooses to use an inventory manage-  
5           ment method under this paragraph with respect to fun-  
6           gible articles, the person shall use the same inventory  
7           management method for any other articles with respect  
8           to which the person claims fungibility under this para-  
9           graph.

10          “(3) For the purposes of this paragraph—

11           “(A) the term ‘fungible articles’ means mer-  
12           chandise or articles that, for commercial purposes,  
13           are identical or interchangeable in all situations; and

14           “(B) the term ‘inventory management method’  
15           means any method for managing inventory that is  
16           based on generally accepted accounting principles.”.

17          (2) EFFECTIVE DATE.—The amendment made  
18          by this subsection applies to articles classifiable  
19          under subheading 9802.00.40 or 9802.00.50 of the  
20          Harmonized Tariff Schedule of the United States  
21          that are entered, or withdrawn from warehouse for  
22          consumption, on or after the date that is 60 days  
23          after the date of the enactment of this Act.

24          (b) MODIFICATION OF PROVISIONS RELATING TO  
25          RETURNED PROPERTY.—

1           (1) IN GENERAL.—The article description for  
 2 heading 9801.00.10 of the Harmonized Tariff  
 3 Schedule of the United States is amended by insert-  
 4 ing after “exported” the following: “, or any other  
 5 products when returned within 3 years after having  
 6 been exported”.

7           (2) EFFECTIVE DATE.—The amendment made  
 8 by paragraph (1) applies to articles entered, or with-  
 9 drawn from warehouse for consumption, on or after  
 10 the date that is 60 days after the date of the enact-  
 11 ment of this Act.

12           (c) DUTY-FREE TREATMENT FOR CERTAIN UNITED  
 13 STATES GOVERNMENT PROPERTY RETURNED TO THE  
 14 UNITED STATES.—

15           (1) IN GENERAL.—Subchapter I of chapter 98  
 16 of the Harmonized Tariff Schedule of the United  
 17 States is amended by inserting in numerical se-  
 18 quence the following new heading:

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property .....	Free	”.
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19           (2) EFFECTIVE DATE.—The amendment made  
 20 by paragraph (1) applies to goods entered, or with-

1 drawn from warehouse for consumption, on or after  
2 the date that is 60 days after the date of the enact-  
3 ment of this Act.

4 **SEC. 605. EXEMPTION FROM DUTY OF RESIDUE OF BULK**  
5 **CARGO CONTAINED IN INSTRUMENTS OF**  
6 **INTERNATIONAL TRAFFIC PREVIOUSLY EX-**  
7 **PORTED FROM THE UNITED STATES.**

8 (a) IN GENERAL.—General Note 3(e) of the Har-  
9 monized Tariff Schedule of the United States is amend-  
10 ed—

11 (1) in subparagraph (v), by striking “and” at  
12 the end;

13 (2) in subparagraph (vi), by adding “and” at  
14 the end;

15 (3) by inserting after subparagraph (vi) (as so  
16 amended) the following new subparagraph:

17 “(vii) residue of bulk cargo contained in  
18 instruments of international traffic previously  
19 exported from the United States,”; and

20 (4) by adding at the end of the flush text fol-  
21 lowing subparagraph (vii) (as so added) the fol-  
22 lowing: “For purposes of subparagraph (vii) of this  
23 paragraph: The term ‘residue’ means material of  
24 bulk cargo that remains in an instrument of inter-  
25 national traffic after the bulk cargo is removed, with

1 a quantity, by weight or volume, not exceeding 7  
2 percent of the bulk cargo, and with no or de minimis  
3 value. The term ‘bulk cargo’ means cargo that is  
4 unpackaged and is in either solid, liquid, or gaseous  
5 form. The term ‘instruments of international traffic’  
6 means containers or holders, capable of and suitable  
7 for repeated use, such as lift vans, cargo vans, ship-  
8 ping tanks, skids, pallets, caul boards, and cores for  
9 textile fabrics, arriving (whether loaded or empty) in  
10 use or to be used in the shipment of merchandise in  
11 international traffic, and any additional articles or  
12 classes of articles that the Commissioner responsible  
13 for U.S. Customs and Border Protection designates  
14 as instruments of international traffic.”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 subsection (a) take effect on the date of the enactment  
17 of this Act and apply with respect to residue of bulk cargo  
18 contained in instruments of international traffic that are  
19 imported into the customs territory of the United States  
20 on or after such date of enactment and that previously  
21 have been exported from the United States.

22 **SEC. 606. DRAWBACK AND REFUNDS.**

23 (a) ARTICLES MADE FROM IMPORTED MERCHAN-  
24 DISE.—Section 313(a) of the Tariff Act of 1930 (19  
25 U.S.C. 1313(a)) is amended by striking “the full amount



1 of the duties paid upon the merchandise so used shall be  
2 refunded as drawback, less 1 per centum of such duties,  
3 except that such” and inserting “an amount calculated  
4 pursuant to regulations prescribed by the Secretary of the  
5 Treasury under subsection (l) shall be refunded as draw-  
6 back, except that”.

7 (b) SUBSTITUTION FOR DRAWBACK PURPOSES.—  
8 Section 313(b) of the Tariff Act of 1930 (19 U.S.C.  
9 1313(b)) is amended—

10 (1) by striking “If imported” and inserting the  
11 following:

12 “(1) IN GENERAL.—If imported”;

13 (2) by striking “and any other merchandise  
14 (whether imported or domestic) of the same kind  
15 and quality are” and inserting “or merchandise clas-  
16 sifiable under the same 8-digit HTS subheading  
17 number as such imported merchandise is”;

18 (3) by striking “three years” and inserting “5  
19 years”;

20 (4) by striking “the receipt of such imported  
21 merchandise by the manufacturer or producer of  
22 such articles” and inserting “the date of importation  
23 of such imported merchandise”;

1           (5) by inserting “or articles classifiable under  
2           the same 8-digit HTS subheading number as such  
3           articles,” after “any such articles,”;

4           (6) by striking “an amount of drawback equal  
5           to” and all that follows through the end period and  
6           inserting “an amount calculated pursuant to regula-  
7           tions prescribed by the Secretary of the Treasury  
8           under subsection (l), but only if those articles have  
9           not been used prior to such exportation or destruc-  
10          tion.”; and

11          (7) by adding at the end the following:

12           “(2) REQUIREMENTS RELATING TO TRANSFER  
13          OF MERCHANDISE.—

14                   “(A) MANUFACTURERS AND PRO-  
15                   DUCERS.—Drawback shall be allowed under  
16                   paragraph (1) with respect to an article manu-  
17                   factured or produced using imported merchan-  
18                   dise or other merchandise classifiable under the  
19                   same 8-digit HTS subheading number as such  
20                   imported merchandise only if the manufacturer  
21                   or producer of the article received such im-  
22                   ported merchandise or such other merchandise,  
23                   directly or indirectly, from the importer.

24                   “(B) EXPORTERS AND DESTROYERS.—  
25                   Drawback shall be allowed under paragraph (1)

1 with respect to a manufactured or produced ar-  
2 ticle that is exported or destroyed only if the  
3 exporter or destroyer received that article or an  
4 article classifiable under the same 8-digit HTS  
5 subheading number as that article, directly or  
6 indirectly, from the manufacturer or producer.

7 “(C) EVIDENCE OF TRANSFER.—Transfers  
8 of merchandise under subparagraph (A) and  
9 transfers of articles under subparagraph (B)  
10 may be evidenced by business records kept in  
11 the normal course of business and no additional  
12 certificates of transfer or manufacture shall be  
13 required.

14 “(3) SUBMISSION OF BILL OF MATERIALS OR  
15 FORMULA.—

16 “(A) IN GENERAL.—Drawback shall be al-  
17 lowed under paragraph (1) with respect to an  
18 article manufactured or produced using im-  
19 ported merchandise or other merchandise classi-  
20 fiable under the same 8-digit HTS subheading  
21 number as such imported merchandise only if  
22 the person making the drawback claim submits  
23 with the claim a bill of materials or formula  
24 identifying the merchandise and article by the

1 8-digit HTS subheading number and the quan-  
2 tity of the merchandise.

3 “(B) BILL OF MATERIALS AND FORMULA  
4 DEFINED.—In this paragraph, the terms ‘bill of  
5 materials’ and ‘formula’ mean records kept in  
6 the normal course of business that identify each  
7 component incorporated into a manufactured or  
8 produced article or that identify the quantity of  
9 each element, material, chemical, mixture, or  
10 other substance incorporated into a manufac-  
11 tured article.

12 “(4) SPECIAL RULE FOR SOUGHT CHEMICAL  
13 ELEMENTS.—

14 “(A) IN GENERAL.—For purposes of para-  
15 graph (1), a sought chemical element may be—

16 “(i) considered imported merchandise,  
17 or merchandise classifiable under the same  
18 8-digit HTS subheading number as such  
19 imported merchandise, used in the manu-  
20 facture or production of an article as de-  
21 scribed in paragraph (1); and

22 “(ii) substituted for source material  
23 containing that sought chemical element,  
24 without regard to whether the sought  
25 chemical element and the source material

1           are classifiable under the same 8-digit  
2           HTS subheading number, and apportioned  
3           quantitatively, as appropriate.

4           “(B) SOUGHT CHEMICAL ELEMENT DE-  
5           FINED.—In this paragraph, the term ‘sought  
6           chemical element’ means an element listed in  
7           the Periodic Table of Elements that is imported  
8           into the United States or a chemical compound  
9           consisting of those elements, either separately  
10          in elemental form or contained in source mate-  
11          rial.”.

12          (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR  
13          SPECIFICATIONS.—Section 313(c) of the Tariff Act of  
14          1930 (19 U.S.C. 1313(c)) is amended—

15                 (1) in paragraph (1)—

16                         (A) in subparagraph (C)(ii), by striking  
17                         “under a certificate of delivery” each place it  
18                         appears;

19                         (B) in subparagraph (D)—

20                                 (i) by striking “3” and inserting “5”;

21                                 and

22                                 (ii) by striking “the Customs Service”

23                                 and inserting “U.S. Customs and Border

24                                 Protection”; and

1 (C) in the flush text at the end, by striking  
2 “the full amount of the duties paid upon such  
3 merchandise, less 1 percent,” and inserting “an  
4 amount calculated pursuant to regulations pre-  
5 scribed by the Secretary of the Treasury under  
6 subsection (1)”;

7 (2) in paragraph (2), by striking “the Customs  
8 Service” and inserting “U.S. Customs and Border  
9 Protection”; and

10 (3) by amending paragraph (3) to read as fol-  
11 lows:

12 “(3) EVIDENCE OF TRANSFERS.—Transfers of  
13 merchandise under paragraph (1) may be evidenced  
14 by business records kept in the normal course of  
15 business and no additional certificates of transfer  
16 shall be required.”.

17 (d) PROOF OF EXPORTATION.—Section 313(i) of the  
18 Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read  
19 as follows:

20 “(i) PROOF OF EXPORTATION.—A person claiming  
21 drawback under this section based on the exportation of  
22 an article shall provide proof of the exportation of the arti-  
23 cle. Such proof of exportation—

24 “(1) shall establish fully the date and fact of  
25 exportation and the identity of the exporter; and

1           “(2) may be established through the use of  
2 records kept in the normal course of business or  
3 through an electronic export system of the United  
4 States Government, as determined by the Commis-  
5 sioner responsible for U.S. Customs and Border  
6 Protection.”.

7           (e) UNUSED MERCHANDISE DRAWBACK.—Section  
8 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is  
9 amended—

10           (1) in paragraph (1)—

11           (A) in subparagraph (A), in the matter  
12 preceding clause (i)—

13           (i) by striking “3-year” and inserting  
14 “5-year”; and

15           (ii) by inserting “and before the draw-  
16 back claim is filed” after “the date of im-  
17 portation”; and

18           (B) in the flush text at the end, by striking  
19 “99 percent of the amount of each duty, tax, or  
20 fee so paid” and inserting “an amount cal-  
21 culated pursuant to regulations prescribed by  
22 the Secretary of the Treasury under subsection  
23 (1)”;

24           (2) in paragraph (2)—

1 (A) in the matter preceding subparagraph  
2 (A), by striking “paragraph (4)” and inserting  
3 “paragraphs (4), (5), and (6)”;

4 (B) in subparagraph (A), by striking  
5 “commercially interchangeable with” and in-  
6 serting “classifiable under the same 8-digit  
7 HTS subheading number as”;

8 (C) in subparagraph (B)—

9 (i) by striking “3-year” and inserting  
10 “5-year”; and

11 (ii) by inserting “and before the draw-  
12 back claim is filed” after “the imported  
13 merchandise”; and

14 (D) in subparagraph (C)(ii), by striking  
15 subclause (II) and inserting the following:

16 “(II) received the imported mer-  
17 chandise, other merchandise classifi-  
18 able under the same 8-digit HTS sub-  
19 heading number as such imported  
20 merchandise, or any combination of  
21 such imported merchandise and such  
22 other merchandise, directly or indi-  
23 rectly from the person who imported  
24 and paid any duties, taxes, and fees  
25 imposed under Federal law upon im-



1 portation or entry and due on the im-  
2 ported merchandise (and any such  
3 transferred merchandise, regardless of  
4 its origin, will be treated as the im-  
5 ported merchandise and any retained  
6 merchandise will be treated as domes-  
7 tic merchandise);”;

8 (E) in the flush text at the end—

9 (i) by striking “the amount of each  
10 such duty, tax, and fee” and all that fol-  
11 lows through “99 percent of that duty, tax,  
12 or fee” and inserting “an amount cal-  
13 culated pursuant to regulations prescribed  
14 by the Secretary of the Treasury under  
15 subsection (l) shall be refunded as draw-  
16 back”; and

17 (ii) by striking the last sentence and  
18 inserting the following: “Notwithstanding  
19 subparagraph (A), drawback shall be al-  
20 lowed under this paragraph with respect to  
21 wine if the imported wine and the exported  
22 wine are of the same color and the price  
23 variation between the imported wine and  
24 the exported wine does not exceed 50 per-  
25 cent. Transfers of merchandise may be evi-

1                   denced by business records kept in the nor-  
2                   mal course of business and no additional  
3                   certificates of transfer shall be required.”;  
4                   and

5                   (3) in paragraph (3)(B), by striking “the com-  
6                   mercially interchangeable merchandise” and insert-  
7                   ing “merchandise classifiable under the same 8-digit  
8                   HTS subheading number as such imported merchan-  
9                   dise”; and

10                  (4) by adding at the end the following:

11                  “(5)(A) For purposes of paragraph (2) and ex-  
12                  cept as provided in subparagraph (B), merchandise  
13                  may not be substituted for imported merchandise for  
14                  drawback purposes based on the 8-digit HTS sub-  
15                  heading number if the article description for the 8-  
16                  digit HTS subheading number under which the im-  
17                  ported merchandise is classified begins with the term  
18                  ‘other’.

19                  “(B) In cases described in subparagraph (A),  
20                  merchandise may be substituted for imported mer-  
21                  chandise for drawback purposes if—

22                         “(i) the other merchandise and such im-  
23                         ported merchandise are classifiable under the  
24                         same 10-digit HTS statistical reporting num-  
25                         ber; and

1           “(ii) the article description for that 10-  
2           digit HTS statistical reporting number does not  
3           begin with the term ‘other’.

4           “(6)(A) For purposes of paragraph (2), a draw-  
5           back claimant may use the first 8 digits of the 10-  
6           digit Schedule B number for merchandise or an arti-  
7           cle to determine if the merchandise or article is clas-  
8           sifiable under the same 8-digit HTS subheading  
9           number as the imported merchandise, without re-  
10          gard to whether the Schedule B number corresponds  
11          to more than one 8-digit HTS subheading number.

12          “(B) In this paragraph, the term ‘Schedule B’  
13          means the Department of Commerce Schedule B,  
14          Statistical Classification of Domestic and Foreign  
15          Commodities Exported from the United States.”.

16          (f) LIABILITY FOR DRAWBACK CLAIMS.—Section  
17          313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is  
18          amended to read as follows:

19          “(k) LIABILITY FOR DRAWBACK CLAIMS.—

20                 “(1) IN GENERAL.—Any person making a claim  
21                 for drawback under this section shall be liable for  
22                 the full amount of the drawback claimed.

23                 “(2) LIABILITY OF IMPORTERS.—An importer  
24                 shall be liable for any drawback claim made by an-  
25                 other person with respect to merchandise imported

1 by the importer in an amount equal to the lesser  
2 of—

3 “(A) the amount of duties, taxes, and fees  
4 that the person claimed with respect to the im-  
5 ported merchandise; or

6 “(B) the amount of duties, taxes, and fees  
7 that the importer authorized the other person  
8 to claim with respect to the imported merchan-  
9 dise.

10 “(3) JOINT AND SEVERAL LIABILITY.—Persons  
11 described in paragraphs (1) and (2) shall be jointly  
12 and severally liable for the amount described in  
13 paragraph (2).”.

14 (g) REGULATIONS.—Section 313(l) of the Tariff Act  
15 of 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

16 “(l) REGULATIONS.—

17 “(1) IN GENERAL.—Allowance of the privileges  
18 provided for in this section shall be subject to com-  
19 pliance with such rules and regulations as the Sec-  
20 retary of the Treasury shall prescribe.

21 “(2) CALCULATION OF DRAWBACK.—

22 “(A) IN GENERAL.—Not later than the  
23 date that is 2 years after the date of the enact-  
24 ment of the Trade Facilitation and Trade En-  
25 forcement Act of 2015 (or, if later, the effective

1 date provided for in section 606(q)(2)(B) of  
2 that Act), the Secretary shall prescribe regula-  
3 tions for determining the calculation of  
4 amounts refunded as drawback under this sec-  
5 tion.

6 “(B) REQUIREMENTS.—The regulations  
7 required by subparagraph (A) for determining  
8 the calculation of amounts refunded as draw-  
9 back under this section shall provide for a re-  
10 fund of up to 99 percent of the duties, taxes,  
11 and fees paid with respect to the imported mer-  
12 chandise, except that where there is substi-  
13 tution of the merchandise or article, then—

14 “(i) in the case of an article that is  
15 exported, the amount of the refund shall  
16 be equal to 99 percent of the lesser of—

17 “(I) the amount of duties, taxes,  
18 and fees paid with respect to the im-  
19 ported merchandise; or

20 “(II) the amount of duties, taxes,  
21 and fees that would apply to the ex-  
22 ported article if the exported article  
23 were imported; and

1                   “(ii) in the case of an article that is  
2                   destroyed, the amount of the refund shall  
3                   be an amount that is—

4                               “(I) equal to 99 percent of the  
5                   lesser of—

6                                       “(aa) the amount of duties,  
7                                       taxes, and fees paid with respect  
8                                       to the imported merchandise; and

9                                       “(bb) the amount of duties,  
10                                      taxes, and fees that would apply  
11                                      to the destroyed article if the de-  
12                                      stroyed article were imported;  
13                                      and

14                                     “(II) reduced by the value of ma-  
15                                     terials recovered during destruction as  
16                                     provided in subsection (x).

17                   “(3) STATUS REPORTS ON REGULATIONS.—Not  
18                   later than the date that is one year after the date  
19                   of the enactment of the Trade Facilitation and  
20                   Trade Enforcement Act of 2015, and annually there-  
21                   after until the regulations required by paragraph (2)  
22                   are final, the Secretary shall submit to Congress a  
23                   report on the status of those regulations.”.

1 (h) SUBSTITUTION OF FINISHED PETROLEUM DE-  
2 RIVATIVES.—Section 313(p) of the Tariff Act of 1930 (19  
3 U.S.C. 1313(p)) is amended—

4 (1) by striking “Harmonized Tariff Schedule of  
5 the United States” each place it appears and insert-  
6 ing “HTS”; and

7 (2) in paragraph (3)(A)—

8 (A) in clause (ii)(III), by striking “, as so  
9 certified in a certificate of delivery or certificate  
10 of manufacture and delivery”; and

11 (B) in the flush text at the end—

12 (i) by striking “, as so designated on  
13 the certificate of delivery or certificate of  
14 manufacture and delivery”; and

15 (ii) by striking the last sentence and  
16 inserting the following: “The party trans-  
17 ferring the merchandise shall maintain  
18 records kept in the normal course of busi-  
19 ness to demonstrate the transfer.”.

20 (i) PACKAGING MATERIAL.—Section 313(q) of the  
21 Tariff Act of 1930 (19 U.S.C. 1313(q)) is amended—

22 (1) in paragraph (1), by striking “of 99 percent  
23 of any duty, tax, or fee imposed under Federal law  
24 on such imported material” and inserting “in an  
25 amount calculated pursuant to regulations pre-

1       scribed by the Secretary of the Treasury under sub-  
2       section (1)”;

3               (2) in paragraph (2), by striking “of 99 percent  
4       of any duty, tax, or fee imposed under Federal law  
5       on the imported or substituted merchandise used to  
6       manufacture or produce such material” and insert-  
7       ing “in an amount calculated pursuant to regula-  
8       tions prescribed by the Secretary of the Treasury  
9       under subsection (1)”; and

10              (3) in paragraph (3), by striking “they contain”  
11       and inserting “it contains”.

12       (j) FILING OF DRAWBACK CLAIMS.—Section 313(r)  
13 of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amend-  
14 ed—

15              (1) in paragraph (1)—

16                      (A) by striking the first sentence and in-  
17       serting the following: “A drawback entry shall  
18       be filed or applied for, as applicable, not later  
19       than 5 years after the date on which merchan-  
20       dise on which drawback is claimed was im-  
21       ported.”;

22                      (B) in the second sentence, by striking “3-  
23       year” and inserting “5-year”; and



1 (C) in the third sentence, by striking “the  
2 Customs Service” and inserting “U.S. Customs  
3 and Border Protection”;

4 (2) in paragraph (3)—

5 (A) in subparagraph (A)—

6 (i) in the matter preceding clause (i),  
7 by striking “The Customs Service” and in-  
8 serting “U.S. Customs and Border Protec-  
9 tion”;

10 (ii) in clauses (i) and (ii), by striking  
11 “the Customs Service” each place it ap-  
12 pears and inserting “U.S. Customs and  
13 Border Protection”; and

14 (iii) in clause (ii)(I), by striking “3-  
15 year” and inserting “5-year”; and

16 (B) in subparagraph (B), by striking “the  
17 periods of time for retaining records set forth  
18 in subsection (t) of this section and” and in-  
19 serting “the period of time for retaining records  
20 set forth in”; and

21 (3) by adding at the end the following:

22 “(4) All drawback claims filed on and after the  
23 date that is 2 years after the date of the enactment  
24 of the Trade Facilitation and Trade Enforcement  
25 Act of 2015 (or, if later, the effective date provided

1 for in section 606(q)(2)(B) of that Act) shall be filed  
2 electronically.”.

3 (k) DESIGNATION OF MERCHANDISE BY SUC-  
4 CESSOR.—Section 313(s) of the Tariff Act of 1930 (19  
5 U.S.C. 1313(s)) is amended—

6 (1) in paragraph (2), by striking subparagraph  
7 (B) and inserting the following:

8 “(B) subject to paragraphs (5) and (6) of  
9 subsection (j), imported merchandise, other  
10 merchandise classifiable under the same 8-digit  
11 HTS subheading number as such imported  
12 merchandise, or any combination of such im-  
13 ported merchandise and such other merchan-  
14 dise, that the predecessor received, before the  
15 date of succession, from the person who im-  
16 ported and paid any duties, taxes, and fees due  
17 on the imported merchandise;”; and

18 (2) in paragraph (4), by striking “certifies  
19 that” and all that follows and inserting “certifies  
20 that the transferred merchandise was not and will  
21 not be claimed by the predecessor.”.

22 (l) DRAWBACK CERTIFICATES.—Section 313 of the  
23 Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-  
24 ing subsection (t).

1 (m) DRAWBACK FOR RECOVERED MATERIALS.—Sec-  
2 tion 313(x) of the Tariff Act of 1930 (19 U.S.C. 1313(x))  
3 is amended by striking “and (c)” and inserting “(c), and  
4 (j)”.

5 (n) DEFINITIONS.—Section 313 of the Tariff Act of  
6 1930 (19 U.S.C. 1313) is amended by adding at the end  
7 the following:

8 “(z) DEFINITIONS.—In this section:

9 “(1) DIRECTLY.—The term ‘directly’ means a  
10 transfer of merchandise or an article from one per-  
11 son to another person without any intermediate  
12 transfer.

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

15 “(3) INDIRECTLY.—The term ‘indirectly’ means  
16 a transfer of merchandise or an article from one per-  
17 son to another person with one or more intermediate  
18 transfers.”.

19 (o) RECORDKEEPING.—Section 508(c)(3) of the Tar-  
20 iff Act of 1930 (19 U.S.C. 1508(c)(3)) is amended—

21 (1) by striking “3rd” and inserting “5th”; and

22 (2) by striking “payment” and inserting “liq-  
23 uidation”.

24 (p) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
25 PORT.—

1           (1) IN GENERAL.—Not later than one year  
2 after the issuance of the regulations required by sub-  
3 section (l)(2) of section 313 of the Tariff Act of  
4 1930, as added by subsection (g), the Comptroller  
5 General of the United States shall submit to the  
6 Committee on Finance of the Senate and the Com-  
7 mittee on Ways and Means of the House of Rep-  
8 resentatives a report on the modernization of draw-  
9 back and refunds under section 313 of the Tariff  
10 Act of 1930, as amended by this section.

11           (2) CONTENTS.—The report required by para-  
12 graph (1) include the following:

13           (A) An assessment of the modernization of  
14 drawback and refunds under section 313 of the  
15 Tariff Act of 1930, as amended by this section.

16           (B) A description of drawback claims that  
17 were permissible before the effective date pro-  
18 vided for in subsection (q) that are not permis-  
19 sible after that effective date and an identifica-  
20 tion of industries most affected.

21           (C) A description of drawback claims that  
22 were not permissible before the effective date  
23 provided for in subsection (q) that are permis-  
24 sible after that effective date and an identifica-  
25 tion of industries most affected.

1 (q) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall—

4 (A) take effect on the date of the enact-  
5 ment of this Act; and

6 (B) except as provided in paragraphs  
7 (2)(B) and (3), apply to drawback claims filed  
8 on or after the date that is 2 years after such  
9 date of enactment.

10 (2) REPORTING OF OPERABILITY OF AUTO-  
11 MATED COMMERCIAL ENVIRONMENT COMPUTER SYS-  
12 TEM.—

13 (A) IN GENERAL.—Not later than one year  
14 after the date of the enactment of this Act, and  
15 not later than 2 years after such date of enact-  
16 ment, the Secretary of the Treasury shall sub-  
17 mit to Congress a report on—

18 (i) the date on which the Automated  
19 Commercial Environment will be ready to  
20 process drawback claims; and

21 (ii) the date on which the Automated  
22 Export System will be ready to accept  
23 proof of exportation under subsection (i) of  
24 section 313 of the Tariff Act of 1930, as  
25 amended by subsection (d).

1           (B) DELAY OF EFFECTIVE DATE.—If the  
2           Secretary indicates in the report required by  
3           subparagraph (A) that the Automated Commer-  
4           cial Environment will not be ready to process  
5           drawback claims by the date that is 2 years  
6           after the date of the enactment of this Act, the  
7           amendments made by this section shall apply to  
8           drawback claims filed on and after the date on  
9           which the Secretary certifies that the Auto-  
10          mated Commercial Environment is ready to  
11          process drawback claims.

12          (3) TRANSITION RULE.—During the one-year  
13          period beginning on the date that is 2 years after  
14          the date of the enactment of this Act (or, if later,  
15          the effective date provided for in paragraph (2)(B)),  
16          a person may elect to file a claim for drawback  
17          under—

18                 (A) section 313 of the Tariff Act of 1930,  
19                 as amended by this section; or

20                 (B) section 313 of the Tariff Act of 1930,  
21                 as in effect on the day before the date of the  
22                 enactment of this Act.

1 **SEC. 607. INCLUSION OF CERTAIN INFORMATION IN SUB-**  
2 **MISSION OF NOMINATION FOR APPOINT-**  
3 **MENT AS DEPUTY UNITED STATES TRADE**  
4 **REPRESENTATIVE.**

5 Section 141(b) of the Trade Act of 1974 (19 U.S.C.  
6 2171(b)) is amended by adding at the end the following:

7 “(4) When the President submits to the Senate for  
8 its advice and consent a nomination of an individual for  
9 appointment as a Deputy United States Trade Represent-  
10 ative under paragraph (2), the President shall include in  
11 that submission information on the country, regional of-  
12 fices, and functions of the Office of the United States  
13 Trade Representative with respect to which that individual  
14 will have responsibility.”.

15 **SEC. 608. BIENNIAL REPORTS REGARDING COMPETITIVE-**  
16 **NESS ISSUES FACING THE UNITED STATES**  
17 **ECONOMY AND COMPETITIVE CONDITIONS**  
18 **FOR CERTAIN KEY UNITED STATES INDUS-**  
19 **TRIES.**

20 (a) **IN GENERAL.**—The United States International  
21 Trade Commission shall conduct a series of investigations,  
22 and submit a report on each such investigation in accord-  
23 ance with subsection (c), regarding competitiveness issues  
24 facing the economy of the United States and competitive  
25 conditions for certain key United States industries.

26 (b) **CONTENTS OF REPORT.**—

1           (1) IN GENERAL.—Each report required by  
2 subsection (a) shall include, to the extent prac-  
3 ticable, the following:

4           (A) A detailed assessment of competitive-  
5 ness issues facing the economy of the United  
6 States, over the 10-year period beginning on  
7 the date on which the report is submitted, that  
8 includes—

9           (i) projections, over that 10-year pe-  
10 riod, of economic measures, such as meas-  
11 ures relating to production in the United  
12 States and United States trade, for the  
13 economy of the United States and for key  
14 United States industries, based on ongoing  
15 trends in the economy of the United States  
16 and global economies and incorporating es-  
17 timates from prominent United States, for-  
18 eign, multinational, and private sector or-  
19 ganizations; and

20           (ii) a description of factors that drive  
21 economic growth, such as domestic produc-  
22 tivity, the United States workforce, foreign  
23 demand for United States goods and serv-  
24 ices, and industry-specific developments.



1 (B) A detailed assessment of a key United  
2 States industry or key United States industries  
3 that, to the extent practicable—

4 (i) identifies with respect to each such  
5 industry the principal factors driving com-  
6 petitiveness as of the date on which the re-  
7 port is submitted; and

8 (ii) describes, with respect to each  
9 such industry, the structure of the global  
10 industry, its market characteristics, cur-  
11 rent industry trends, relevant policies and  
12 programs of foreign governments, and  
13 principal factors affecting future competi-  
14 tiveness.

15 (2) SELECTION OF KEY UNITED STATES INDUS-  
16 TRIES.—

17 (A) IN GENERAL.—In conducting assess-  
18 ments required under paragraph (1)(B), the  
19 Commission shall, to the extent practicable, se-  
20 lect a different key United States industry or  
21 different key United States industries for pur-  
22 poses of each report required by subsection (a).

23 (B) CONSULTATIONS WITH CONGRESS.—  
24 The Commission shall consult with the Com-  
25 mittee on Finance of the Senate and the Com-

1           mittee on Ways and Means of the House of  
2           Representatives before selecting the key United  
3           States industry or key United States industries  
4           for purposes of each report required by sub-  
5           section (a).

6           (c) SUBMISSION OF REPORTS.—

7           (1) IN GENERAL.—Not later than May 15,  
8           2017, and every 2 years thereafter through 2025,  
9           the Commission shall submit to the Committee on  
10          Finance of the Senate and the Committee on Ways  
11          and Means of the House of Representatives a report  
12          on the most recent investigation conducted under  
13          subsection (a).

14          (2) EXTENSION OF DEADLINE.—The Commis-  
15          sion may, after consultation with the Committee on  
16          Finance of the Senate and the Committee on Ways  
17          and Means of the House of Representatives, submit  
18          a report under paragraph (1) later than the date re-  
19          quired by that paragraph.

20          (3) CONFIDENTIAL BUSINESS INFORMATION.—  
21          A report submitted under paragraph (1) shall not  
22          include any confidential business information un-  
23          less—

24                  (A) the party that submitted the confiden-  
25          tial business information to the Commission

1 had notice, at the time of submission, that the  
2 information would be released by the Commis-  
3 sion; or

4 (B) that party consents to the release of  
5 the information.

6 (d) KEY UNITED STATES INDUSTRY DEFINED.—In  
7 this section, the term “key United States industry” means  
8 a goods or services industry that—

9 (1) contributes significantly to United States  
10 economic activity and trade; or

11 (2) is a potential growth area for the United  
12 States and global markets.

13 **SEC. 609. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER**  
14 **PROTECTION AGREEMENTS.**

15 (a) IN GENERAL.—Not later than one year after en-  
16 tering into an agreement under a program specified in  
17 subsection (b), and annually thereafter until the termi-  
18 nation of the program, the Commissioner shall submit to  
19 the Committee on Finance of the Senate and the Com-  
20 mittee on Ways and Means of the House of Representa-  
21 tives a report that includes the following:

22 (1) A description of the development of the pro-  
23 gram.

24 (2) A description of the type of entity with  
25 which U.S. Customs and Border Protection entered

1 into the agreement and the amount that entity reim-  
2 bursed U.S. Customs and Border Protection under  
3 the agreement.

4 (3) An identification of the type of port of entry  
5 to which the agreement relates and an assessment of  
6 how the agreement provides economic benefits at the  
7 port of entry.

8 (4) A description of the services provided by  
9 U.S. Customs and Border Protection under the  
10 agreement during the year preceding the submission  
11 of the report.

12 (5) The amount of fees collected under the  
13 agreement during that year.

14 (6) A detailed accounting of how the fees col-  
15 lected under the agreement have been spent during  
16 that year.

17 (7) A summary of any complaints or criticism  
18 received by U.S. Customs and Border Protection  
19 during that year regarding the agreement.

20 (8) An assessment of the compliance of the en-  
21 tity described in paragraph (2) with the terms of the  
22 agreement.

23 (9) Recommendations with respect to how ac-  
24 tivities conducted pursuant to the agreement could

1 function more effectively or better produce economic  
2 benefits.

3 (10) A summary of the benefits to and chal-  
4 lenges faced by U.S. Customs and Border Protection  
5 and the entity described in paragraph (2) under the  
6 agreement.

7 (b) PROGRAM SPECIFIED.—A program specified in  
8 this subsection is—

9 (1) the program for entering into reimbursable  
10 fee agreements for the provision of U.S. Customs  
11 and Border Protection services established by section  
12 560 of the Department of Homeland Security Ap-  
13 propriations Act, 2013 (division D of Public Law  
14 113–6; 127 Stat. 378); or

15 (2) the pilot program authorizing U.S. Customs  
16 and Border Protection to enter into partnerships  
17 with private sector and government entities at ports  
18 of entry established by section 559 of the Depart-  
19 ment of Homeland Security Appropriations Act,  
20 2014 (division F of Public Law 113–76; 6 U.S.C.  
21 211 note).

22 **SEC. 610. CHARTER FLIGHTS.**

23 Section 13031(e)(1) of the Consolidated Omnibus  
24 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1))  
25 is amended—

1           (1) by striking “(1) Notwithstanding section  
2           451 of the Tariff Act of 1930 (19 U.S.C. 1451) or  
3           any other provision of law (other than paragraph  
4           (2))” and inserting the following:

5           “(1)(A) Notwithstanding section 451 of the Tariff  
6           Act of 1930 (19 U.S.C. 1451) or any other provision of  
7           law (other than subparagraph (B) and paragraph (2))”;  
8           and

9           (2) by adding at the end the following:

10          “(B)(i) An appropriate officer of U.S. Customs and  
11          Border Protection may assign a sufficient number of em-  
12          ployees of U.S. Customs and Border Protection (if avail-  
13          able) to perform services described in clause (ii) for a  
14          charter air carrier (as defined in section 40102 of title  
15          49, United States Code) for a charter flight arriving after  
16          normal operating hours at an airport that is an established  
17          port of entry serviced by U.S. Customs and Border Pro-  
18          tection, notwithstanding that overtime funds for those  
19          services are not available, if the charter air carrier—

20                 “(I) not later than 4 hours before the flight ar-  
21                 rives, specifically requests that such services be pro-  
22                 vided; and

23                 “(II) pays any overtime fees incurred in connec-  
24                 tion with such services.

1       “(ii) Services described in this clause are customs  
2 services for passengers and their baggage or any other  
3 such service that could lawfully be performed during reg-  
4 ular hours of operation.”.

5 **SEC. 611. AMENDMENT TO TARIFF ACT OF 1930 TO REQUIRE**  
6                   **COUNTRY OF ORIGIN MARKING OF CERTAIN**  
7                   **CASTINGS.**

8       (a) IN GENERAL.—Section 304(e) of the Tariff Act  
9 of 1930 (19 U.S.C. 1304(e)) is amended—

10           (1) in the subsection heading, by striking  
11 “MANHOLE RINGS OR FRAMES, COVERS, AND AS-  
12 SEMBLIES THEREOF” and inserting “CASTINGS”;

13           (2) by inserting “inlet frames, tree and trench  
14 grates, lampposts, lamppost bases, cast utility poles,  
15 bollards, hydrants, utility boxes,” before “manhole  
16 rings,”; and

17           (3) by adding at the end before the period the  
18 following: “in a location such that it will remain visi-  
19 ble after installation”.

20       (b) EFFECTIVE DATE.—The amendments made by  
21 subsection (a) take effect on the date of the enactment  
22 of this Act and apply with respect to the importation of  
23 castings described in such amendments on or after the  
24 date that is 180 days after such date of enactment.