

**AMENDMENT TO THE SENATE AMENDMENT TO  
H.R. 644**

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

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

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 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.

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 risk assessment targeting and trade alerts.

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.

Sec. 116. Customs broker identification of importers.

Sec. 117. Requirements applicable to non-resident importers.

Sec. 118. Priority trade issues.

Sec. 119. Appropriate congressional committees defined.

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—PREVENTION OF EVASION OF ANTIDUMPING AND  
COUNTERVAILING DUTY ORDERS

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Application to Canada and Mexico.

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

- Sec. 411. Trade remedy law enforcement division.
- Sec. 412. Collection of information on evasion of trade remedy laws.
- Sec. 413. Access to information.
- Sec. 414. Cooperation with foreign countries on preventing evasion of trade remedy laws.
- Sec. 415. Trade negotiating objectives.

Subtitle B—Investigation of Evasion of Trade Remedy Laws

- Sec. 421. Procedures for investigation of evasion of antidumping and countervailing duty orders.
- Sec. 422. Government Accountability Office report.

Subtitle C—Other Matters

- Sec. 431. Allocation and training of personnel.
- Sec. 432. Annual report on prevention of evasion of antidumping and countervailing duty orders.
- Sec. 433. Addressing circumvention by new shippers.

TITLE V—IMPROVEMENTS TO ANTIDUMPING AND  
COUNTERVAILING DUTY LAWS

- Sec. 501. Short title.
- Sec. 502. Consequences of failure to cooperate with a request for information in a proceeding.
- Sec. 503. Definition of material injury.
- Sec. 504. Particular market situation.
- Sec. 505. Distortion of prices or costs.
- Sec. 506. Reduction in burden on Department of Commerce by reducing the number of voluntary respondents.
- Sec. 507. Application to Canada and Mexico.

#### TITLE VI—ADDITIONAL ENFORCEMENT PROVISIONS

- Sec. 601. Trade enforcement priorities.
- Sec. 602. Exercise of WTO authorization to suspend concessions or other obligations under trade agreements.
- Sec. 603. Trade monitoring.

#### TITLE VII—CURRENCY MANIPULATION

- Sec. 701. Enhancement of engagement on currency exchange rate and economic policies with certain major trading partners of the United States.
- Sec. 702. Advisory Committee on International Exchange Rate Policy.

#### TITLE VIII—ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION

- Sec. 801. Short title.
- Sec. 802. Establishment of U.S. Customs and Border Protection.

#### TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. De minimis value.
- Sec. 902. Consultation on trade and customs revenue functions.
- Sec. 903. Penalties for customs brokers.
- Sec. 904. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 905. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.
- Sec. 906. Drawback and refunds.
- Sec. 907. Office of the United States Trade Representative.
- Sec. 908. United States-Israel Trade and Commercial Enhancement.
- Sec. 909. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.
- Sec. 910. Customs user fees.
- Sec. 911. Report on certain U.S. Customs and Border Protection agreements.
- Sec. 912. Amendments to Bipartisan Congressional Trade Priorities and Accountability Act of 2015.
- Sec. 913. Certain interest to be included in distributions under Continued Dumping and Subsidy Offset Act of 2000.
- Sec. 914. Report on competitiveness of U.S. recreational performance outerwear industry.
- Sec. 915. Increase in penalty for failure to file return of tax.

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)).

9 (2) **COMMISSIONER.**—The term “Commis-  
10 sioner” means the Commissioner of U.S. Customs  
11 and Border Protection, as described in section  
12 411(b) of the Homeland Security Act of 2002, as  
13 added by section 802(a) of this Act.

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

17 (A) The Tariff Act of 1930 (19 U.S.C.  
18 1202 et seq.).

19 (B) Section 249 of the Revised Statutes  
20 (19 U.S.C. 3).

21 (C) Section 2 of the Act of March 4, 1923  
22 (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

23 (D) The Act of March 3, 1927 (44 Stat.  
24 1381, chapter 348; 19 U.S.C. 2071 et seq.).

1 (E) Section 13031 of the Consolidated  
2 Omnibus Budget Reconciliation Act of 1985  
3 (19 U.S.C. 58c).

4 (F) Section 251 of the Revised Statutes  
5 (19 U.S.C. 66).

6 (G) Section 1 of the Act of June 26, 1930  
7 (46 Stat. 817, chapter 617; 19 U.S.C. 68).

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

10 (I) Section 1 of the Act of March 2, 1911  
11 (36 Stat. 965, chapter 191; 19 U.S.C. 198).

12 (J) The Trade Act of 1974 (19 U.S.C.  
13 2102 et seq.).

14 (K) The Trade Agreements Act of 1979  
15 (19 U.S.C. 2501 et seq.).

16 (L) The North American Free Trade  
17 Agreement Implementation Act (19 U.S.C.  
18 3301 et seq.).

19 (M) The Uruguay Round Agreements Act  
20 (19 U.S.C. 3501 et seq.).

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

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

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

3 (Q) The Customs Enforcement Act of  
4 1986 (Public Law 99–570; 100 Stat. 3207–79).

5 (R) The Customs and Trade Act of 1990  
6 (Public Law 101–382; 104 Stat. 629).

7 (S) The Customs Procedural Reform and  
8 Simplification Act of 1978 (Public Law 95–  
9 410; 92 Stat. 888).

10 (T) The Trade Act of 2002 (Public Law  
11 107–210; 116 Stat. 933).

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

14 (V) The Act of March 28, 1928 (45 Stat.  
15 374, chapter 266; 19 U.S.C. 2077 et seq.).

16 (W) The Act of August 7, 1939 (53 Stat.  
17 1263, chapter 566).

18 (X) Any other provision of law imple-  
19 menting a trade agreement.

20 (Y) Any other provision of law vesting cus-  
21 toms revenue functions in the Secretary of the  
22 Treasury.

23 (Z) Any other provision of law relating to  
24 trade facilitation or trade enforcement that is  
25 administered by U.S. Customs and Border Pro-

1           tection on behalf of any Federal agency that is  
2           required to participate in the International  
3           Trade Data System.

4           (AA) Any other provision of customs or  
5           trade law administered by U.S. Customs and  
6           Border Protection or U.S. Immigration and  
7           Customs Enforcement.

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

10           (A) an importer;

11           (B) an exporter;

12           (C) a forwarder;

13           (D) an air, sea, or land carrier or shipper;

14           (E) a contract logistics provider;

15           (F) a customs broker; or

16           (G) any other person (other than an em-  
17           ployee of a government) affected by the imple-  
18           mentation of the customs and trade laws of the  
19           United States.

20           (5) TRADE ENFORCEMENT.—The term “trade  
21           enforcement” means the enforcement of the customs  
22           and trade laws of the United States.

23           (6) TRADE FACILITATION.—The term “trade  
24           facilitation” refers to policies and activities of U.S.  
25           Customs and Border Protection with respect to fa-

1 facilitating the movement of merchandise into and out  
2 of the United States in a manner that complies with  
3 the customs and trade laws of the United States.

## 4 **TITLE I—TRADE FACILITATION** 5 **AND TRADE ENFORCEMENT**

### 6 **SEC. 101. IMPROVING PARTNERSHIP PROGRAMS.**

7 (a) IN GENERAL.—In order to advance the security,  
8 trade enforcement, and trade facilitation missions of U.S.  
9 Customs and Border Protection, the Commissioner shall  
10 ensure that partnership programs of U.S. Customs and  
11 Border Protection established before the date of the enact-  
12 ment of this Act, such as the Customs–Trade Partnership  
13 Against Terrorism established under subtitle B of title II  
14 of the Security and Accountability for Every Port Act of  
15 2006 (6 U.S.C. 961 et seq.), and partnership programs  
16 of U.S. Customs and Border Protection established on or  
17 after such date of enactment, provide trade benefits to pri-  
18 vate sector entities that meet the requirements for partici-  
19 pation in those programs established by the Commissioner  
20 under this section.

21 (b) ELEMENTS.—In developing and operating part-  
22 nership programs under subsection (a), the Commissioner  
23 shall—

24 (1) consult with private sector entities, the pub-  
25 lic, and other Federal agencies when appropriate, to



1 ensure that participants in those programs receive  
2 commercially significant and measurable trade bene-  
3 fits, including providing pre-clearance of merchan-  
4 dise for qualified persons that demonstrate the high-  
5 est levels of compliance with the customs and trade  
6 laws of the United States, regulations of U.S. Cus-  
7 toms and Border Protection, and other requirements  
8 the Commissioner determines to be necessary;

9 (2) ensure an integrated and transparent sys-  
10 tem of trade benefits and compliance requirements  
11 for all partnership programs of U.S. Customs and  
12 Border Protection;

13 (3) consider consolidating partnership programs  
14 in situations in which doing so would support the  
15 objectives of such programs, increase participation in  
16 such programs, enhance the trade benefits provided  
17 to participants in such programs, and enhance the  
18 allocation of the resources of U.S. Customs and Bor-  
19 der Protection;

20 (4) coordinate with the Director of U.S. Immi-  
21 gration and Customs Enforcement, and other Fed-  
22 eral agencies with authority to detain and release  
23 merchandise entering the United States—

24 (A) to ensure coordination in the release of  
25 such merchandise through the Automated Com-

1           mercial Environment, or its predecessor, and  
2           the International Trade Data System;

3           (B) to ensure that the partnership pro-  
4           grams of those agencies are compatible with the  
5           partnership programs of U.S. Customs and  
6           Border Protection;

7           (C) to develop criteria for authorizing the  
8           release, on an expedited basis, of merchandise  
9           for which documentation is required from one  
10          or more of those agencies to clear or license the  
11          merchandise for entry into the United States;  
12          and

13          (D) to create pathways, within and among  
14          the appropriate Federal agencies, for qualified  
15          persons that demonstrate the highest levels of  
16          compliance with the customs and trade laws of  
17          the United States to receive immediate clear-  
18          ance absent information that a transaction may  
19          pose a national security or compliance threat;  
20          and

21          (5) ensure that trade benefits are provided to  
22          participants in partnership programs.

23          (c) REPORT REQUIRED.—Not later than the date  
24          that is 180 days after the date of the enactment of this  
25          Act, and not later than December 31 of each calendar year

1 thereafter, the Commissioner shall submit to the appro-  
2 priate congressional committees a report that—

3 (1) identifies each partnership program referred  
4 to in subsection (a);

5 (2) for each such program, identifies—

6 (A) the requirements for participants in  
7 the program;

8 (B) the commercially significant and meas-  
9 urable trade benefits provided to participants in  
10 the program;

11 (C) the number of participants in the pro-  
12 gram; and

13 (D) in the case of a program that provides  
14 for participation at multiple tiers, the number  
15 of participants at each such tier;

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

18 (4) assesses the effectiveness of each such part-  
19 nership program in advancing the security, trade en-  
20 forcement, and trade facilitation missions of U.S.  
21 Customs and Border Protection, based on historical  
22 developments, the level of participation in the pro-  
23 gram, and the evolution of benefits provided to par-  
24 ticipants in the program;

1           (5) summarizes the efforts of U.S. Customs and  
2           Border Protection to work with other Federal agen-  
3           cies with authority to detain and release merchan-  
4           dise entering the United States to ensure that part-  
5           nership programs of those agencies are compatible  
6           with partnership programs of U.S. Customs and  
7           Border Protection;

8           (6) summarizes criteria developed with those  
9           agencies for authorizing the release, on an expedited  
10          basis, of merchandise for which documentation is re-  
11          quired from one or more of those agencies to clear  
12          or license the merchandise for entry into the United  
13          States;

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

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

22          (9) summarizes the plans, targets, and goals of  
23          U.S. Customs and Border Protection with respect to  
24          such programs for the 2 years following the submis-  
25          sion of the report.

1 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE EN-**  
2 **FORCEMENT ACTIVITIES.**

3 (a) IN GENERAL.—Not later than one year after the  
4 date of the enactment of this Act, the Comptroller General  
5 of the United States shall submit to the appropriate con-  
6 gressional committees a report on the effectiveness of  
7 trade enforcement activities of U.S. Customs and Border  
8 Protection.

9 (b) CONTENTS.—The report required by subsection  
10 (a) shall include—

11 (1) a description of the use of resources, results  
12 of audits and verifications, targeting, organization,  
13 and training of personnel of U.S. Customs and Bor-  
14 der Protection; and

15 (2) a description of trade enforcement activities  
16 to address undervaluation, transshipment, legitimacy  
17 of entities making entry, protection of revenues,  
18 fraud prevention and detection, and penalties, in-  
19 cluding intentional misclassification, inadequate  
20 bonding, and other misrepresentations.

21 **SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS**  
22 **FOR CUSTOMS MODERNIZATION, TRADE FA-**  
23 **CILITATION, AND TRADE ENFORCEMENT**  
24 **FUNCTIONS AND PROGRAMS.**

25 (a) PRIORITIES AND PERFORMANCE STANDARDS.—

1           (1) IN GENERAL.—The Commissioner, in con-  
2           sultation with the appropriate congressional commit-  
3           tees, shall establish priorities and performance  
4           standards to measure the development and levels of  
5           achievement of the customs modernization, trade fa-  
6           cilitation, and trade enforcement functions and pro-  
7           grams described in subsection (b).

8           (2) MINIMUM PRIORITIES AND STANDARDS.—  
9           Such priorities and performance standards shall, at  
10          a minimum, include priorities and standards relating  
11          to efficiency, outcome, output, and other types of ap-  
12          plicable measures.

13          (b) FUNCTIONS AND PROGRAMS DESCRIBED.—The  
14          functions and programs referred to in subsection (a) are  
15          the following:

16               (1) The Automated Commercial Environment.

17               (2) Each of the priority trade issues described  
18               in section 118.

19               (3) The Centers of Excellence and Expertise de-  
20               scribed in section 110.

21               (4) Drawback for exported merchandise under  
22               section 313 of the Tariff Act of 1930 (19 U.S.C.  
23               1313), as amended by section 906 of this Act.

24               (5) Transactions relating to imported merchan-  
25               dise in bond.

1           (6) Collection of countervailing duties assessed  
2           under subtitle A of title VII of the Tariff Act of  
3           1930 (19 U.S.C. 1671 et seq.) and antidumping du-  
4           ties assessed under subtitle B of title VII of the Tar-  
5           iff Act of 1930 (19 U.S.C. 1673 et seq.).

6           (7) The expedited clearance of cargo.

7           (8) The issuance of regulations and rulings.

8           (9) The issuance of Regulatory Audit Reports.

9           (c) CONSULTATIONS AND NOTIFICATION.—

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

13           (2) NOTIFICATION.—The Commissioner shall  
14           notify the appropriate congressional committees of  
15           any changes to the priorities referred to in sub-  
16           section (a) not later than 30 days before such  
17           changes are to take effect.

18 **SEC. 104. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**  
19                           **TO CLASSIFY AND APPRAISE IMPORTED AR-**  
20                           **TICLES, TO IMPROVE TRADE ENFORCEMENT**  
21                           **EFFORTS, AND TO OTHERWISE FACILITATE**  
22                           **LEGITIMATE INTERNATIONAL TRADE.**

23           (a) IN GENERAL.—

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

4                   (A) improve the ability of U.S. Customs  
5                   and Border Protection personnel to classify and  
6                   appraise articles imported into the United  
7                   States in accordance with the customs and  
8                   trade laws of the United States;

9                   (B) improve the trade enforcement efforts  
10                  of U.S. Customs and Border Protection per-  
11                  sonnel and U.S. Immigration and Customs En-  
12                  forcement personnel; and

13                  (C) otherwise improve the ability and effec-  
14                  tiveness of U.S. Customs and Border Protection  
15                  personnel and U.S. Immigration and Customs  
16                  Enforcement personnel to facilitate legitimate  
17                  international trade.

18       (b) CONTENT.—

19           (1) CLASSIFYING AND APPRAISING IMPORTED  
20           ARTICLES.—In carrying out subsection (a)(1)(A),  
21           the Commissioner, the Director, and interested par-  
22           ties in the private sector selected under subsection  
23           (c) shall provide instruction and related instructional  
24           materials at each educational seminar under this  
25           section to U.S. Customs and Border Protection per-



1       sonnel and, as appropriate, to U.S. Immigration and  
2       Customs Enforcement personnel on the following:

3               (A) Conducting a physical inspection of an  
4               article imported into the United States, includ-  
5               ing testing of samples of the article, to deter-  
6               mine if the article is mislabeled in the manifest  
7               or other accompanying documentation.

8               (B) Reviewing the manifest and other ac-  
9               companying documentation of an article im-  
10              ported into the United States to determine if  
11              the country of origin of the article listed in the  
12              manifest or other accompanying documentation  
13              is accurate.

14              (C) Customs valuation.

15              (D) Industry supply chains and other re-  
16              lated matters as determined to be appropriate  
17              by the Commissioner.

18              (2) TRADE ENFORCEMENT EFFORTS.—In car-  
19              rying out subsection (a)(1)(B), the Commissioner,  
20              the Director, and interested parties in the private  
21              sector selected under subsection (c) shall provide in-  
22              struction and related instructional materials at each  
23              educational seminar under this section to U.S. Cus-  
24              toms and Border Protection personnel and, as ap-  
25              propriate, to U.S. Immigration and Customs En-

1 enforcement personnel to identify opportunities to en-  
2 hance enforcement of the following:

3 (A) Collection of countervailing duties as-  
4 sessed under subtitle A of title VII of the Tariff  
5 Act of 1930 (19 U.S.C. 1671 et seq.) and anti-  
6 dumping duties assessed under subtitle B of  
7 title VII of the Tariff Act of 1930 (19 U.S.C.  
8 1673 et seq.).

9 (B) Addressing evasion of duties on im-  
10 ports of textiles.

11 (C) Protection of intellectual property  
12 rights.

13 (D) Enforcement of child labor laws.

14 (3) APPROVAL OF COMMISSIONER AND DIREC-  
15 TOR.—The instruction and related instructional ma-  
16 terials at each educational seminar under this sec-  
17 tion shall be subject to the approval of the Commis-  
18 sioner and the Director.

19 (c) SELECTION PROCESS.—

20 (1) IN GENERAL.—The Commissioner shall es-  
21 tablish a process to solicit, evaluate, and select inter-  
22 ested parties in the private sector for purposes of as-  
23 sisting in providing instruction and related instruc-  
24 tional materials described in subsection (b) at each  
25 educational seminar under this section.

1           (2) CRITERIA.—The Commissioner shall evalu-  
2           ate and select interested parties in the private sector  
3           under the process established under paragraph (1)  
4           based on—

5                   (A) availability and usefulness;

6                   (B) the volume, value, and incidence of  
7           mislabeling or misidentification of origin of im-  
8           ported articles; and

9                   (C) other appropriate criteria established  
10          by the Commissioner.

11          (3) PUBLIC AVAILABILITY.—The Commissioner  
12          and the Director shall publish in the Federal Reg-  
13          ister a detailed description of the process established  
14          under paragraph (1) and the criteria established  
15          under paragraph (2).

16          (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-  
17          TERVAILING DUTY ORDERS.—

18               (1) IN GENERAL.—The Commissioner shall give  
19               due consideration to carrying out an educational  
20               seminar under this section in whole or in part to im-  
21               prove the ability of U.S. Customs and Border Pro-  
22               tection personnel to enforce a countervailing or anti-  
23               dumping duty order issued under section 706 or 736  
24               of the Tariff Act of 1930 (19 U.S.C. 1671e or  
25               1673e) upon the request of a petitioner in an action

1       underlying such countervailing or antidumping duty  
2       order.

3           (2) INTERESTED PARTY.—A petitioner de-  
4       scribed in paragraph (1) shall be treated as an inter-  
5       ested party in the private sector for purposes of the  
6       requirements of this section.

7           (e) PERFORMANCE STANDARDS.—The Commissioner  
8       and the Director shall establish performance standards to  
9       measure the development and level of achievement of edu-  
10      cational seminars under this section.

11          (f) REPORTING.—Beginning September 30, 2016, the  
12      Commissioner and the Director shall submit to the appro-  
13      priate congressional committees an annual report on the  
14      effectiveness of educational seminars under this section.

15          (g) DEFINITIONS.—In this section:

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

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

23           (3) U.S. CUSTOMS AND BORDER PROTECTION  
24      PERSONNEL.—The term “U.S. Customs and Border  
25      Protection personnel” means import specialists,

1        auditors, and other appropriate employees of the  
2        U.S. Customs and Border Protection.

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

9        **SEC. 105. JOINT STRATEGIC PLAN.**

10        (a) IN GENERAL.—Not later than one year after the  
11        date of the enactment of this Act, and every 2 years there-  
12        after, the Commissioner and the Director of U.S. Immi-  
13        gration and Customs Enforcement shall jointly develop  
14        and submit to the appropriate congressional committees  
15        a joint strategic plan.

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

20            (1) a summary of actions taken during the 2-  
21        year period preceding the submission of the plan to  
22        improve trade enforcement and trade facilitation, in-  
23        cluding a description and analysis of specific per-  
24        formance measures to evaluate the progress of U.S.  
25        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 section 118, that can be ad-  
8       dressed in order to enhance trade enforcement and  
9       trade facilitation, and a description of strategies and  
10      plans for addressing each such issue;

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

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

22              (6) a description of efforts to work with the  
23      World Customs Organization and other international  
24      organizations, in consultation with other Federal

1 agencies as appropriate, with respect to enhancing  
2 trade enforcement and trade facilitation;

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

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

9 (9) any legislative recommendations to further  
10 improve trade enforcement and trade facilitation;  
11 and

12 (10) a description of efforts made to improve  
13 consultation and coordination with the private sector  
14 to enhance trade enforcement and trade facilitation.

15 (c) CONSULTATIONS.—

16 (1) IN GENERAL.—In developing the joint stra-  
17 tegic plan required under this section, the Commis-  
18 sioner and the Director of U.S. Immigration and  
19 Customs Enforcement shall consult with—

20 (A) appropriate officials from the relevant  
21 Federal agencies, including—

22 (i) the Department of the Treasury;

23 (ii) the Department of Agriculture;

24 (iii) the Department of Commerce;

25 (iv) the Department of Justice;

- 1 (v) the Department of the Interior;  
2 (vi) the Department of Health and  
3 Human Services;  
4 (vii) the Food and Drug Administra-  
5 tion;  
6 (viii) the Consumer Product Safety  
7 Commission; and  
8 (ix) the Office of the United States  
9 Trade Representative; and  
10 (B) the Commercial Customs Operations  
11 Advisory Committee established by section 109.

12 (2) OTHER CONSULTATIONS.—In developing  
13 the joint strategic plan required under this section,  
14 the Commissioner and the Director shall seek to  
15 consult with—

16 (A) appropriate officials from relevant for-  
17 eign law enforcement agencies and international  
18 organizations, including the World Customs Or-  
19 ganization; and

20 (B) interested parties in the private sector.

21 **SEC. 106. AUTOMATED COMMERCIAL ENVIRONMENT.**

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



1 (1) by striking “2003 through 2005” and in-  
2 sserting “2016 through 2018”;

3 (2) by striking “such amounts as are available  
4 in that Account” and inserting “not less than  
5 \$153,736,000”; and

6 (3) by striking “for the development” and in-  
7 sserting “to complete the development and implemen-  
8 tation”.

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

12 “(3) REPORT.—

13 “(A) IN GENERAL.—Not later than De-  
14 cember 31, 2016, the Commissioner of U.S.  
15 Customs and Border Protection shall submit to  
16 the Committee on Appropriations and the Com-  
17 mittee on Finance of the Senate and the Com-  
18 mittee on Appropriations and the Committee on  
19 Ways and Means of the House of Representa-  
20 tives a report detailing—

21 “(i) U.S. Customs and Border Protec-  
22 tion’s incorporation of all core trade proc-  
23 essing capabilities, including cargo release,  
24 entry summary, cargo manifest, cargo fi-  
25 nancial data, and export data elements

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

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

19 “(iii) the components of the National  
20 Customs Automation Program specified in  
21 subsection (a)(2) of section 411 of the  
22 Tariff Act of 1930 that have not been im-  
23 plemented; and

24 “(iv) any additional components of the  
25 National Customs Automation Program

1 initiated by the Commissioner to complete  
2 the development, establishment, and imple-  
3 mentation of the Automated Commercial  
4 Environment computer system.

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

14 “(i) evaluating the effectiveness of the  
15 implementation of the Automated Commer-  
16 cial Environment computer system; and

17 “(ii) detailing the percentage of trade  
18 processed in the Automated Commercial  
19 Environment every month since September  
20 30, 2016.”.

21 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
22 PORT.—Not later than December 31, 2017, the Comp-  
23 troller General of the United States shall submit to the  
24 Committee on Appropriations and the Committee on Fi-  
25 nance of the Senate and the Committee on Appropriations

1 and the Committee on Ways and Means of the House of  
2 Representatives a report—

3 (1) assessing the progress of other Federal  
4 agencies in accessing and utilizing the Automated  
5 Commercial Environment; and

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

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

15 Section 411(d) of the Tariff Act of 1930 (19 U.S.C.  
16 1411(d)) is amended—

17 (1) by redesignating paragraphs (4) through  
18 (7) as paragraphs (5) through (8), respectively;

19 (2) by inserting after paragraph (3) the fol-  
20 lowing:

21 “(4) INFORMATION TECHNOLOGY INFRASTRUC-  
22 TURE.—

23 “(A) IN GENERAL.—The Secretary shall  
24 work with the head of each agency participating

1 in the ITDS and the Interagency Steering  
2 Committee to ensure that each agency—

3 “(i) develops and maintains the nec-  
4 essary information technology infrastruc-  
5 ture to support the operation of the ITDS  
6 and to submit all data to the ITDS elec-  
7 tronically;

8 “(ii) enters into a memorandum of  
9 understanding, or takes such other action  
10 as is necessary, to provide for the informa-  
11 tion sharing between the agency and U.S.  
12 Customs and Border Protection necessary  
13 for the operation and maintenance of the  
14 ITDS;

15 “(iii) not later than June 30, 2016,  
16 identifies and transmits to the Commis-  
17 sioner of U.S. Customs and Border Protec-  
18 tion the admissibility criteria and data ele-  
19 ments required by the agency to authorize  
20 the release of cargo by U.S. Customs and  
21 Border Protection for incorporation into  
22 the operational functionality of the Auto-  
23 mated Commercial Environment computer  
24 system authorized under section  
25 13031(f)(4) of the Consolidated Omnibus

1 Budget and Reconciliation Act of 1985 (19  
2 U.S.C. 58c(f)(4)); and

3 “(iv) not later than December 31,  
4 2016, utilizes the ITDS as the primary  
5 means of receiving from users the standard  
6 set of data and other relevant documenta-  
7 tion, exclusive of applications for permits,  
8 licenses, or certifications required for the  
9 release of imported cargo and clearance of  
10 cargo for export.

11 “(B) RULE OF CONSTRUCTION.—Nothing  
12 in this paragraph shall be construed to require  
13 any action to be taken that would compromise  
14 an ongoing law enforcement investigation or na-  
15 tional security.”; and

16 (3) in paragraph (8), as redesignated, by strik-  
17 ing “section 9503(c) of the Omnibus Budget Rec-  
18 onciliation Act of 1987 (19 U.S.C. 2071 note)” and  
19 inserting “section 109 of the Trade Facilitation and  
20 Trade Enforcement Act of 2015”.

21 **SEC. 108. CONSULTATIONS WITH RESPECT TO MUTUAL**  
22 **RECOGNITION ARRANGEMENTS.**

23 (a) CONSULTATIONS.—The Secretary of Homeland  
24 Security, with respect to any proposed mutual recognition  
25 arrangement or similar agreement between the United

1 States and a foreign government providing for mutual rec-  
2 ognition of supply chain security programs and customs  
3 revenue functions, shall consult—

4 (1) not later than 30 days before initiating ne-  
5 gotiations to enter into any such arrangement or  
6 similar agreement, with the appropriate congres-  
7 sional committees; and

8 (2) not later than 30 days before entering into  
9 any such arrangement or similar agreement, with  
10 the appropriate congressional committees.

11 (b) **NEGOTIATING OBJECTIVE.**—It shall be a negoti-  
12 ating objective of the United States in any negotiation for  
13 a mutual recognition arrangement with a foreign country  
14 on partnership programs, such as the Customs-Trade  
15 Partnership Against Terrorism established under subtitle  
16 B of title II of the Security and Accountability for Every  
17 Port Act of 2006 (6 U.S.C. 961 et seq.), to seek to ensure  
18 the compatibility of the partnership programs of that  
19 country with the partnership programs of U.S. Customs  
20 and Border Protection to enhance security, trade facilita-  
21 tion, and trade enforcement.

22 **SEC. 109. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**  
23 **COMMITTEE.**

24 (a) **ESTABLISHMENT.**—Not later than the date that  
25 is 60 days after the date of the enactment of this Act,

1 the Secretary of the Treasury and the Secretary of Home-  
2 land Security shall jointly establish a Commercial Customs  
3 Operations Advisory Committee (in this section referred  
4 to as the “Advisory Committee”).

5 (b) MEMBERSHIP.—

6 (1) IN GENERAL.—The Advisory Committee  
7 shall be comprised of—

8 (A) 20 individuals appointed under para-  
9 graph (2);

10 (B) the Assistant Secretary for Tax Policy  
11 of the Department of the Treasury and the  
12 Commissioner, who shall jointly co-chair meet-  
13 ings of the Advisory Committee; and

14 (C) the Assistant Secretary for Policy and  
15 the Director of U.S. Immigration and Customs  
16 Enforcement of the Department of Homeland  
17 Security, who shall serve as deputy co-chairs of  
18 meetings of the Advisory Committee.

19 (2) APPOINTMENT.—

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

24 (B) REQUIREMENTS.—In making appoint-  
25 ments under subparagraph (A), the Secretary



1 of the Treasury and the Secretary of Homeland  
2 Security shall appoint members—

3 (i) to ensure that the membership of  
4 the Advisory Committee is representative  
5 of the individuals and firms affected by the  
6 commercial operations of U.S. Customs  
7 and Border Protection; and

8 (ii) without regard to political affili-  
9 ation.

10 (C) TERMS.—Each individual appointed to  
11 the Advisory Committee under this paragraph  
12 shall be appointed for a term of not more than  
13 3 years, and may be reappointed to subsequent  
14 terms, but may not serve more than 2 terms se-  
15 quentially.

16 (3) TRANSFER OF MEMBERSHIP.—The Sec-  
17 retary of the Treasury and the Secretary of Home-  
18 land Security may transfer members serving on the  
19 Advisory Committee on Commercial Operations of  
20 the United States Customs Service established under  
21 section 9503(c) of the Omnibus Budget Reconcili-  
22 ation Act of 1987 (19 U.S.C. 2071 note) on the day  
23 before the date of the enactment of this Act to the  
24 Advisory Committee established under subsection  
25 (a).

1 (c) DUTIES.—The Advisory Committee established  
2 under subsection (a) shall—

3 (1) advise the Secretary of the Treasury and  
4 the Secretary of Homeland Security on all matters  
5 involving the commercial operations of U.S. Customs  
6 and Border Protection, including advising with re-  
7 spect to significant changes that are proposed with  
8 respect to regulations, policies, or practices of U.S.  
9 Customs and Border Protection;

10 (2) provide recommendations to the Secretary  
11 of the Treasury and the Secretary of Homeland Se-  
12 curity on improvements to the commercial operations  
13 of U.S. Customs and Border Protection;

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

16 (4) perform such other functions relating to the  
17 commercial operations of U.S. Customs and Border  
18 Protection as prescribed by law or as the Secretary  
19 of the Treasury and the Secretary of Homeland Se-  
20 curity jointly direct.

21 (d) MEETINGS.—

22 (1) IN GENERAL.—The Advisory Committee  
23 shall meet at the call of the Secretary of the Treas-  
24 ury and the Secretary of Homeland Security, or at  
25 the call of not less than  $\frac{2}{3}$  of the membership of the

1       Advisory Committee. The Advisory Committee shall  
2       meet at least 4 times each calendar year.

3               (2) OPEN MEETINGS.—Notwithstanding section  
4       10(a) of the Federal Advisory Committee Act (5  
5       U.S.C. App.), the Advisory Committee meetings  
6       shall be open to the public unless the Secretary of  
7       the Treasury or the Secretary of Homeland Security  
8       determines that the meeting will include matters the  
9       disclosure of which would compromise the develop-  
10      ment of policies, priorities, or negotiating objectives  
11      or positions that could impact the commercial oper-  
12      ations of U.S. Customs and Border Protection or  
13      the operations or investigations of U.S. Immigration  
14      and Customs Enforcement.

15      (e) ANNUAL REPORT.—Not later than December 31,  
16      2016, and annually thereafter, the Advisory Committee  
17      shall submit to the Committee on Finance of the Senate  
18      and the Committee on Ways and Means of the House of  
19      Representatives a report that—

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

22               (2) sets forth any recommendations of the Advi-  
23      sory Committee regarding the commercial operations  
24      of U.S. Customs and Border Protection.

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

5 (g) CONFORMING AMENDMENT.—

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

11 (2) REFERENCE.—Any reference in law to the  
12 Advisory Committee on Commercial Operations of  
13 the United States Customs Service established under  
14 section 9503(c) of the Omnibus Budget Reconcili-  
15 ation Act of 1987 (19 U.S.C. 2071 note) made on  
16 or after the date on which the Advisory Committee  
17 is established under subsection (a), shall be deemed  
18 a reference to the Commercial Customs Operations  
19 Advisory Committee established under subsection  
20 (a).

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

22 (a) IN GENERAL.—The Commissioner shall, in con-  
23 sultation with the appropriate congressional committees  
24 and the Commercial Customs Operations Advisory Com-  
25 mittee established by section 109, develop and implement

1 Centers of Excellence and Expertise throughout U.S. Customs and Border Protection that—

3 (1) enhance the economic competitiveness of the  
4 United States by consistently enforcing the laws and  
5 regulations of the United States at all ports of entry  
6 of the United States and by facilitating the flow of  
7 legitimate trade through increasing industry-based  
8 knowledge;

9 (2) improve enforcement efforts, including enforcement of priority trade issues described in section 118, in specific industry sectors through the application of targeting information from the National Targeting Center under section 111 and from other means of verification;

15 (3) build upon the expertise of U.S. Customs and Border Protection in particular industry operations, supply chains, and compliance requirements;

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

21 (5) centralize the trade enforcement and trade facilitation efforts of U.S. Customs and Border Protection;

24 (6) formalize an account-based approach to  
25 apply, as the Commissioner determines appropriate,

1 to the importation of merchandise into the United  
2 States;

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

5 (8) develop applicable performance measure-  
6 ments to meet internal efficiency and effectiveness  
7 goals; and

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

10 (b) REPORT.—Not later than December 31, 2016,  
11 the Commissioner shall submit to the appropriate congres-  
12 sional committees a report describing—

13 (1) the scope, functions, and structure of each  
14 Center of Excellence and Expertise developed and  
15 implemented under subsection (a);

16 (2) the effectiveness of each such Center of Ex-  
17 cellence and Expertise in improving enforcement ef-  
18 forts, including enforcement of priority trade issues  
19 described in section 118, and facilitating legitimate  
20 trade;

21 (3) the quantitative and qualitative benefits of  
22 each such Center of Excellence and Expertise to the  
23 trade community, including through fostering part-  
24 nerships through the expansion of trade programs

1 such as the Importer Self Assessment program and  
2 other trusted partner programs;

3 (4) all applicable performance measurements  
4 with respect to each such Center of Excellence and  
5 Expertise, including performance measures with re-  
6 spect to meeting internal efficiency and effectiveness  
7 goals;

8 (5) the performance of each such Center of Ex-  
9 cellence and Expertise in increasing the accuracy  
10 and completeness of data with respect to inter-  
11 national trade and facilitating a more efficient flow  
12 of information between Federal agencies; and

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

17 **SEC. 111. COMMERCIAL RISK ASSESSMENT TARGETING**  
18 **AND TRADE ALERTS.**

19 (a) **COMMERCIAL RISK ASSESSMENT TARGETING.—**  
20 In carrying out its duties under section 411(g)(4) of the  
21 Homeland Security Act of 2002, as added by section  
22 802(a) of this Act, the National Targeting Center shall—

23 (1) establish targeted risk assessment meth-  
24 odologies and standards—

1 (A) for evaluating the risk that cargo des-  
2 tined for the United States may violate the cus-  
3 toms and trade laws of the United States, par-  
4 ticularly those laws applicable to merchandise  
5 subject to the priority trade issues described in  
6 section 118; and

7 (B) for issuing, as appropriate, Trade  
8 Alerts described in subsection (b);

9 (2) to the extent practicable and otherwise au-  
10 thORIZED by law, use, to administer the methodologies  
11 and standards established under paragraph (1)—

12 (A) publicly available information;

13 (B) information available from the Auto-  
14 mated Commercial System, the Automated  
15 Commercial Environment computer system, the  
16 Automated Targeting System, the Automated  
17 Export System, the International Trade Data  
18 System, the TECS (formerly known as the  
19 “Treasury Enforcement Communications Sys-  
20 tem”), the case management system of U.S.  
21 Immigration and Customs Enforcement, and  
22 any successor systems; and

23 (C) information made available to the Na-  
24 tional Targeting Center, including information  
25 provided by private sector entities; and



1           (3) provide for the receipt and transmission to  
2           the appropriate U.S. Customs and Border Protec-  
3           tion offices of allegations from interested parties in  
4           the private sector of violations of customs and trade  
5           laws of the United States of merchandise relating to  
6           the priority trade issues described in section 118.

7           (b) TRADE ALERTS.—

8           (1) ISSUANCE.—In carrying out its duties  
9           under section 411(g)(4) of the Homeland Security  
10          Act of 2002, as added by section 802(a) of this Act,  
11          and based upon the application of the targeted risk  
12          assessment methodologies and standards established  
13          under subsection (a), the Executive Director of the  
14          National Targeting Center may issue Trade Alerts  
15          to directors of United States ports of entry directing  
16          further inspection, or physical examination or test-  
17          ing, of specific merchandise to ensure compliance  
18          with all applicable customs and trade laws and regu-  
19          lations administered by U.S. Customs and Border  
20          Protection.

21          (2) DETERMINATIONS NOT TO IMPLEMENT  
22          TRADE ALERTS.—The director of a United States  
23          port of entry may determine not to conduct further  
24          inspections, or physical examination or testing, pur-

1       suant to a Trade Alert issued under paragraph (1)  
2       if—

3               (A) the director finds that such a deter-  
4               mination is justified by port security interests;  
5               and

6               (B) not later than 48 hours after making  
7               the determination, notifies the Assistant Com-  
8               missioner of the Office of Field Operations of  
9               U.S. Customs and Border Protection of the de-  
10              termination and the reasons for the determina-  
11              tion.

12             (3) SUMMARY OF DETERMINATIONS NOT TO IM-  
13             PLEMENT.—The Assistant Commissioner of the Of-  
14             fice of Field Operations of U.S. Customs and Border  
15             Protection shall—

16               (A) compile an annual public summary of  
17               all determinations by directors of United States  
18               ports of entry under paragraph (2) and the rea-  
19               sons for those determinations;

20               (B) conduct an evaluation of the utilization  
21               of Trade Alerts issued under paragraph (1);  
22               and

23               (C) not later than December 31 of each  
24               year, submit the summary to the appropriate  
25               congressional committees.

1           (4) INSPECTION DEFINED.—In this subsection,  
2           the term “inspection” means the comprehensive  
3           evaluation process used by U.S. Customs and Bor-  
4           der Protection, other than physical examination or  
5           testing, to permit the entry of merchandise into the  
6           United States, or the clearance of merchandise for  
7           transportation in bond through the United States,  
8           for purposes of—

9                   (A) assessing duties;

10                   (B) identifying restricted or prohibited  
11           items; and

12                   (C) ensuring compliance with all applicable  
13           customs and trade laws and regulations admin-  
14           istered by U.S. Customs and Border Protection.

15           (c) USE OF TRADE DATA FOR COMMERCIAL EN-  
16           FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the  
17           Trade Act of 2002 (19 U.S.C. 2071 note) is amended to  
18           read as follows:

19                   “(F) The information collected pursuant to  
20           the regulations shall be used exclusively for en-  
21           suring cargo safety and security, preventing  
22           smuggling, and commercial risk assessment tar-  
23           geting, and shall not be used for any commer-  
24           cial enforcement purposes, including for deter-  
25           mining merchandise entry. Notwithstanding the

1 preceding sentence, nothing in this section shall  
2 be treated as amending, repealing, or otherwise  
3 modifying title IV of the Tariff Act of 1930 or  
4 regulations promulgated thereunder.”.

5 **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
6 **TION AND ENFORCEMENT MEASURES.**

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

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

18 (A) the collection of countervailing duties  
19 assessed under subtitle A of title VII of the  
20 Tariff Act of 1930 (19 U.S.C. 1671 et seq.)  
21 and antidumping duties assessed under subtitle  
22 B of title VII of the Tariff Act of 1930 (19  
23 U.S.C. 1673 et seq.);

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

1           (C) the use of bonds, including continuous  
2           and single transaction bonds, to secure that  
3           revenue; and

4           (D) the adequacy of the policies of U.S.  
5           Customs and Border Protection with respect to  
6           the monitoring and tracking of merchandise  
7           transported in bond and collecting duties, as  
8           appropriate.

9           (2) The effectiveness of actions taken by U.S.  
10          Customs and Border Protection to measure account-  
11          ability and performance with respect to protection of  
12          revenue.

13          (3) The number and outcome of investigations  
14          instituted by U.S. Customs and Border Protection  
15          with respect to the underpayment of duties.

16          (4) The effectiveness of training with respect to  
17          the collection of duties provided for personnel of  
18          U.S. Customs and Border Protection.

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

1 **SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES**  
2 **WITH RESPECT TO MERCHANDISE TRANS-**  
3 **PORTED IN BOND.**

4 (a) IN GENERAL.—Not later than December 31 of  
5 2016, 2017, and 2018, the Secretary of Homeland Secu-  
6 rity and the Secretary of the Treasury shall jointly submit  
7 to the Committee on Finance of the Senate and the Com-  
8 mittee on Ways and Means of the House of Representa-  
9 tives a report on efforts undertaken by U.S. Customs and  
10 Border Protection to ensure the secure transportation of  
11 merchandise in bond through the United States and the  
12 collection of revenue owed upon the entry of such mer-  
13 chandise into the United States for consumption.

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

17 (1) the overall number of entries of merchan-  
18 dise for transportation in bond through the United  
19 States;

20 (2) the ports at which merchandise arrives in  
21 the United States for transportation in bond and at  
22 which records of the arrival of such merchandise are  
23 generated;

24 (3) the average time taken to reconcile such  
25 records with the records at the final destination of  
26 the merchandise in the United States to demonstrate

1 that the merchandise reaches its final destination or  
2 is re-exported;

3 (4) the average time taken to transport mer-  
4 chandise in bond from the port at which the mer-  
5 chandise arrives in the United States to its final des-  
6 tination in the United States;

7 (5) the total amount of duties, taxes, and fees  
8 owed with respect to shipments of merchandise  
9 transported in bond and the total amount of such  
10 duties, taxes, and fees paid;

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

14 (7) the number of entries that remain  
15 unreconciled.

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

17 (a) ESTABLISHMENT.—Not later than the date that  
18 is 180 days after the date of the enactment of this Act,  
19 the Secretary of Homeland Security shall establish an im-  
20 porter of record program to assign and maintain importer  
21 of record numbers.

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

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

4                   (A) criteria to ensure sufficient informa-  
5                   tion is collected to allow U.S. Customs and Bor-  
6                   der Protection to verify the existence of the im-  
7                   porter requesting the importer of record num-  
8                   ber;

9                   (B) criteria to ensure sufficient informa-  
10                   tion is collected to allow U.S. Customs and Bor-  
11                   der Protection to identify linkages or other af-  
12                   filiations between importers that are requesting  
13                   or have been assigned importer of record num-  
14                   bers; and

15                   (C) criteria to ensure sufficient informa-  
16                   tion is collected to allow U.S. Customs and Bor-  
17                   der Protection to identify changes in address  
18                   and corporate structure of importers;

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

21           (3) maintains a centralized database of im-  
22           porter of record numbers, including a history of im-  
23           porter of record numbers associated with each im-  
24           porter, and the information described in subpara-  
25           graphs (A), (B), and (C) of paragraph (1);



1           (4) evaluates and maintains the accuracy of the  
2           database if such information changes; and

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

5           (c) REPORT.—Not later than one year after the date  
6           of the enactment of this Act, the Secretary shall submit  
7           to the Committee on Finance of the Senate and the Com-  
8           mittee on Ways and Means of the House of Representa-  
9           tives a report on the importer of record program estab-  
10          lished under subsection (a).

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

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

19          (a) IN GENERAL.—Not later than the date that is  
20          180 days after the date of the enactment of this Act, the  
21          Commissioner shall establish a new importer program that  
22          directs U.S. Customs and Border Protection to adjust  
23          bond amounts for new importers based on the level of risk  
24          assessed by U.S. Customs and Border Protection for pro-  
25          tection of revenue of the Federal Government.

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

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

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

10 (A) to adjust bond amounts of imported  
11 products of new importers; and

12 (B) to increase screening of imported prod-  
13 ucts of new importers;

14 (3) develops procedures to ensure increased  
15 oversight of imported products of new importers re-  
16 lating to the enforcement of the priority trade issues  
17 described in section 118;

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

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

1 **SEC. 116. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**  
2 **ERS.**

3 (a) IN GENERAL.—Section 641 of the Tariff Act of  
4 1930 (19 U.S.C. 1641) is amended by adding at the end  
5 the following:

6 “(i) IDENTIFICATION OF IMPORTERS.—

7 “(1) IN GENERAL.—The Secretary shall pre-  
8 scribe regulations setting forth the minimum stand-  
9 ards for customs brokers and importers, including  
10 nonresident importers, regarding the identity of the  
11 importer that shall apply in connection with the im-  
12 portation of merchandise into the United States.

13 “(2) MINIMUM REQUIREMENTS.—The regula-  
14 tions shall, at a minimum, require customs brokers  
15 to implement, and importers (after being given ade-  
16 quate notice) to comply with, reasonable procedures  
17 for—

18 “(A) collecting the identity of importers,  
19 including nonresident importers, seeking to im-  
20 port merchandise into the United States to the  
21 extent reasonable and practicable; and

22 “(B) maintaining records of the informa-  
23 tion used to substantiate a person’s identity, in-  
24 cluding name, address, and other identifying in-  
25 formation.

1           “(3) PENALTIES.—Any customs broker who  
2 fails to collect information required under the regu-  
3 lations prescribed under this subsection shall be lia-  
4 ble to the United States, at the discretion of the  
5 Secretary, for a monetary penalty not to exceed  
6 \$10,000 for each violation of those regulations and  
7 subject to revocation or suspension of a license or  
8 permit of the customs broker pursuant to the proce-  
9 dures set forth in subsection (d).

10           “(4) DEFINITIONS.—In this subsection—

11           “(A) the term ‘importer’ means one of the  
12 parties qualifying as an importer of record  
13 under section 484(a)(2)(B); and

14           “(B) the term ‘nonresident importer’  
15 means an importer who is—

16           “(i) an individual who is not a citizen  
17 of the United States or an alien lawfully  
18 admitted for permanent residence in the  
19 United States; or

20           “(ii) a partnership, corporation, or  
21 other commercial entity that is not orga-  
22 nized under the laws of a jurisdiction with-  
23 in the customs territory of the United  
24 States (as such term is defined in General  
25 Note 2 of the Harmonized Tariff Schedule

1                   of the United States) or in the Virgin Is-  
2                   lands of the United States.”.

3           (b) **STUDY AND REPORT REQUIRED.**—Not later than  
4 180 days after the date of enactment of this Act, the Com-  
5 missioner shall submit to Congress a report containing  
6 recommendations for—

7           (1) determining the most timely and effective  
8 way to require foreign nationals to provide customs  
9 brokers with appropriate and accurate information,  
10 comparable to that which is required of United  
11 States nationals, concerning the identity, address,  
12 and other related information relating to such for-  
13 eign nationals necessary to enable customs brokers  
14 to comply with the requirements of section 641(i) of  
15 the Tariff Act of 1930 (as added by subsection (a)  
16 of this section); and

17           (2) establishing a system for customs brokers to  
18 review information maintained by relevant Federal  
19 agencies for purposes of verifying the identities of  
20 importers, including nonresident importers, seeking  
21 to import merchandise into the United States.

1 **SEC. 117. REQUIREMENTS APPLICABLE TO NON-RESIDENT**  
2 **IMPORTERS.**

3 (a) IN GENERAL.—Part III of title IV of the Tariff  
4 Act of 1930 (19 U.S.C. 1481 et seq.) is amended by in-  
5 serting after section 484b the following new section:

6 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**  
7 **DENT IMPORTERS.**

8 “(a) IN GENERAL.—Except as provided in subsection  
9 (c), if an importer of record under section 484 is not a  
10 resident of the United States, the Commissioner of U.S.  
11 Customs and Border Protection shall require the non-resi-  
12 dent importer to designate a resident agent in the United  
13 States subject to the requirements described in subsection  
14 (b).

15 “(b) REQUIREMENTS.—The requirements described  
16 in this subsection are the following:

17 “(1) The resident agent shall be authorized to  
18 accept service of process against the non-resident  
19 importer in connection with the importation of mer-  
20 chandise.

21 “(2) The Commissioner of U.S. Customs and  
22 Border Protection shall require the non-resident im-  
23 porter to establish a power of attorney with the resi-  
24 dent agent in connection with the importation of  
25 merchandise.

1       “(c) NON-APPLICABILITY.—The requirements of this  
2 section shall not apply with respect to a non-resident im-  
3 porter who is a validated Tier 2 or Tier 3 participant in  
4 the Customs-Trade Partnership Against Terrorism pro-  
5 gram established under subtitle B of title II of the SAFE  
6 Port Act (6 U.S.C. 961 et seq.).

7       “(d) PENALTIES.—

8           “(1) IN GENERAL.—It shall be unlawful for any  
9 person to import into the United States any mer-  
10 chandise in violation of this section.

11           “(2) CIVIL PENALTIES.—Any person who vio-  
12 lates paragraph (1) shall be liable for a civil penalty  
13 of \$50,000 for each such violation.

14           “(3) OTHER PENALTIES.—In addition to the  
15 penalties specified in paragraph (2), any violation of  
16 this section that violates any other customs and  
17 trade laws of the United States shall be subject to  
18 any applicable civil and criminal penalty, including  
19 seizure and forfeiture, that may be imposed under  
20 such customs or trade law or title 18, United States  
21 Code, with respect to the importation of merchan-  
22 dise.

23           “(4) DEFINITION.—In this subsection, the term  
24 ‘customs and trade laws of the United States’ has  
25 the meaning given such term in section 2 of the

1 Trade Facilitation and Trade Enforcement Act of  
2 2015.”.

3 (b) EFFECTIVE DATE.—Section 484c of the Tariff  
4 Act of 1930, as added by subsection (a), takes effect on  
5 the date of the enactment of this Act and applies with  
6 respect to the importation, on or after the date that is  
7 180 days after such date of enactment, of merchandise  
8 of an importer of record under section 484 of the Tariff  
9 Act of 1930 who is not a resident of the United States.

10 **SEC. 118. PRIORITY TRADE ISSUES.**

11 (a) IN GENERAL.—The Commissioner shall establish  
12 the following as priority trade issues:

- 13 (1) Agriculture programs.
- 14 (2) Antidumping and countervailing duties.
- 15 (3) Import safety.
- 16 (4) Intellectual property rights.
- 17 (5) Revenue.
- 18 (6) Textiles and wearing apparel.
- 19 (7) Trade agreements and preference programs.

20 (b) MODIFICATION.—The Commissioner is author-  
21 ized to establish new priority trade issues and eliminate,  
22 consolidate, or otherwise modify the priority trade issues  
23 described in subsection (a) if the Commissioner—

- 24 (1) determines it necessary and appropriate to  
25 do so; and



1           (2) submits to the appropriate congressional  
2 committees a summary of the proposed changes to  
3 the priority trade issues not later than 60 days be-  
4 fore such changes are to take effect.

5 **SEC. 119. APPROPRIATE CONGRESSIONAL COMMITTEES**  
6 **DEFINED.**

7 In this title, the term “appropriate congressional  
8 committees” means—

9           (1) the Committee on Finance and the Com-  
10 mittee on Homeland Security and Government Af-  
11 fairs of the Senate; and

12           (2) the Committee on Ways and Means and the  
13 Committee on Homeland Security of the House of  
14 Representatives.

15 **TITLE II—IMPORT HEALTH AND**  
16 **SAFETY**

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

18           (a) **ESTABLISHMENT.**—There is established an inter-  
19 agency Import Safety Working Group.

20           (b) **MEMBERSHIP.**—The interagency Import Safety  
21 Working Group shall consist of the following officials or  
22 their designees:

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

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

3           (3) The Secretary of the Treasury.

4           (4) The Secretary of Commerce.

5           (5) The Secretary of Agriculture.

6           (6) The United States Trade Representative.

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

9           (8) The Commissioner of Food and Drugs.

10          (9) The Commissioner of U.S. Customs and  
11          Border Protection.

12          (10) The Chairman of the Consumer Product  
13          Safety Commission.

14          (11) The Director of U.S. Immigration and  
15          Customs Enforcement.

16          (12) The head of any other Federal agency des-  
17          ignated by the President to participate in the inter-  
18          agency Import Safety Working Group, as appro-  
19          priate.

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

22                (1) consulting on the development of the joint  
23                import safety rapid response plan required by sec-  
24                tion 202;

1           (2) periodically evaluating the adequacy of the  
2 plans, practices, and resources of the Federal Gov-  
3 ernment dedicated to ensuring the safety of mer-  
4 chandise imported in the United States and the ex-  
5 peditious entry of such merchandise, including—

6           (A) minimizing the duplication of efforts  
7 among agencies the heads of which are mem-  
8 bers of the interagency Import Safety Working  
9 Group and ensuring the compatibility of the  
10 policies and regulations of those agencies; and

11          (B) recommending additional administra-  
12 tive actions, as appropriate, designed to ensure  
13 the safety of merchandise imported into the  
14 United States and the expeditious entry of such  
15 merchandise and considering the impact of  
16 those actions on private sector entities;

17          (3) reviewing the engagement and cooperation  
18 of foreign governments and foreign manufacturers in  
19 facilitating the inspection and certification, as appro-  
20 priate, of such merchandise to be imported into the  
21 United States and the facilities producing such mer-  
22 chandise to ensure the safety of the merchandise  
23 and the expeditious entry of the merchandise into  
24 the United States;

1           (4) identifying best practices, in consultation  
2 with private sector entities as appropriate, to assist  
3 United States importers in taking all appropriate  
4 steps to ensure the safety of merchandise imported  
5 into the United States, including with respect to—

6           (A) the inspection of manufacturing facili-  
7 ties in foreign countries;

8           (B) the inspection of merchandise destined  
9 for the United States before exportation from a  
10 foreign country or before distribution in the  
11 United States; and

12           (C) the protection of the international sup-  
13 ply chain (as defined in section 2 of the Secu-  
14 rity and Accountability For Every Port Act of  
15 2006 (6 U.S.C. 901));

16           (5) identifying best practices to assist Federal,  
17 State, and local governments and agencies, and port  
18 authorities, to improve communication and coordina-  
19 tion among such agencies and authorities with re-  
20 spect to ensuring the safety of merchandise imported  
21 into the United States and the expeditious entry of  
22 such merchandise; and

23           (6) otherwise identifying appropriate steps to  
24 increase the accountability of United States import-  
25 ers and the engagement of foreign government agen-

1       cies with respect to ensuring the safety of merchan-  
2       dise imported into the United States and the expedi-  
3       tious entry of such merchandise.

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

5       (a) IN GENERAL.—Not later than December 31,  
6       2016, the Secretary of Homeland Security, in consultation  
7       with the interagency Import Safety Working Group estab-  
8       lished under section 201, shall develop a plan (to be known  
9       as the “joint import safety rapid response plan”) that sets  
10      forth protocols and defines practices for U.S. Customs and  
11      Border Protection to use—

12             (1) in taking action in response to, and coordi-  
13             nating Federal responses to, an incident in which  
14             cargo destined for or merchandise entering the  
15             United States has been identified as posing a threat  
16             to the health or safety of consumers in the United  
17             States; and

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

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

23             (1) the statutory and regulatory authorities and  
24             responsibilities of U.S. Customs and Border Protec-

1 tion and other Federal agencies in responding to an  
2 incident described in subsection (a)(1);

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

7 (3) the measures to be taken by U.S. Customs  
8 and Border Protection and other Federal agencies in  
9 recovering from or mitigating the effects of actions  
10 taken in response to such an incident after the inci-  
11 dent to ensure the resumption of the entry of mer-  
12 chandise into the United States; and

13 (4) exercises that U.S. Customs and Border  
14 Protection may conduct in conjunction with Federal,  
15 State, and local agencies, and private sector entities,  
16 to simulate responses to such an incident.

17 (c) UPDATES OF PLAN.—The Secretary of Homeland  
18 Security shall review and update the joint import safety  
19 rapid response plan, as appropriate, after conducting exer-  
20 cises under subsection (d).

21 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

22 (1) IN GENERAL.—The Secretary of Homeland  
23 Security and the Commissioner shall periodically en-  
24 gage in the exercises referred to in subsection (b)(4),  
25 in conjunction with Federal, State, and local agen-

1       cies and private sector entities, as appropriate, to  
2       test and evaluate the protocols and practices identi-  
3       fied in the joint import safety rapid response plan at  
4       United States ports of entry.

5               (2) REQUIREMENTS FOR EXERCISES.—In con-  
6       ducting exercises under paragraph (1), the Secretary  
7       and the Commissioner shall—

8                       (A) make allowance for the resources,  
9                       needs, and constraints of United States ports of  
10                      entry of different sizes in representative geo-  
11                      graphic locations across the United States;

12                     (B) base evaluations on current risk as-  
13                     sessments of merchandise entering the United  
14                     States at representative United States ports of  
15                     entry located across the United States;

16                     (C) ensure that such exercises are con-  
17                     ducted in a manner consistent with the Na-  
18                     tional Incident Management System, the Na-  
19                     tional Response Plan, the National Infrastruc-  
20                     ture Protection Plan, the National Prepared-  
21                     ness Guidelines, the Maritime Transportation  
22                     System Security Plan, and other such national  
23                     initiatives of the Department of Homeland Se-  
24                     curity, as appropriate; and

1 (D) develop metrics with respect to the re-  
2 sumption of the entry of merchandise into the  
3 United States after an incident described in  
4 subsection (a)(1).

5 (3) REQUIREMENTS FOR TESTING AND EVALUA-  
6 TION.—The Secretary and the Commissioner shall  
7 ensure that the testing and evaluation carried out in  
8 conducting exercises under paragraph (1)—

9 (A) are performed using clear and objec-  
10 tive performance measures; and

11 (B) result in the identification of specific  
12 recommendations or best practices for respond-  
13 ing to an incident described in subsection  
14 (a)(1).

15 (4) DISSEMINATION OF RECOMMENDATIONS  
16 AND BEST PRACTICES.—The Secretary and the  
17 Commissioner shall—

18 (A) share the recommendations or best  
19 practices identified under paragraph (3)(B)  
20 among the members of the interagency Import  
21 Safety Working Group established under sec-  
22 tion 201 and with, as appropriate—

23 (i) State, local, and tribal govern-  
24 ments;

25 (ii) foreign governments; and



1 (iii) private sector entities; and  
2 (B) use such recommendations and best  
3 practices to update the joint import safety rapid  
4 response plan.

5 **SEC. 203. TRAINING.**

6 The Commissioner shall ensure that personnel of  
7 U.S. Customs and Border Protection assigned to United  
8 States ports of entry are trained to effectively administer  
9 the provisions of this title and to otherwise assist in ensur-  
10 ing the safety of merchandise imported into the United  
11 States and the expeditious entry of such merchandise.

12 **TITLE III—IMPORT-RELATED**  
13 **PROTECTION OF INTELLEC-**  
14 **TUAL PROPERTY RIGHTS**

15 **SEC. 301. DEFINITION OF INTELLECTUAL PROPERTY**  
16 **RIGHTS.**

17 In this title, the term “intellectual property rights”  
18 refers to copyrights, trademarks, and other forms of intel-  
19 lectual property rights that are enforced by U.S. Customs  
20 and Border Protection or U.S. Immigration and Customs  
21 Enforcement.

1 **SEC. 302. EXCHANGE OF INFORMATION RELATED TO**  
2 **TRADE ENFORCEMENT.**

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

6 **“SEC. 628A. EXCHANGE OF INFORMATION RELATED TO**  
7 **TRADE ENFORCEMENT.**

8 “(a) IN GENERAL.—Subject to subsections (c) and  
9 (d), if the Commissioner of U.S. Customs and Border Pro-  
10 tection suspects that merchandise is being imported into  
11 the United States in violation of section 526 of this Act  
12 or section 602, 1201(a)(2), or 1201(b)(1) of title 17,  
13 United States Code, and determines that the examination  
14 or testing of the merchandise by a person described in sub-  
15 section (b) would assist the Commissioner in determining  
16 if the merchandise is being imported in violation of that  
17 section, the Commissioner, to permit the person to con-  
18 duct the examination and testing—

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

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

1       “(b) PERSON DESCRIBED.—A person described in  
2 this subsection is—

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

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

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

18           “(4) in the case of merchandise suspected of  
19 being primarily designed or produced for the pur-  
20 pose of circumventing protection afforded by a tech-  
21 nological measure that effectively protects a right of  
22 an owner of a copyright in a work or a portion of  
23 a work, and being imported in violation of section  
24 1201(b)(1) of that title, the owner of the copyright.

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

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

11           (b) **TERMINATION OF PREVIOUS AUTHORITY.**—Not-  
12 withstanding paragraph (2) of section 818(g) of the Na-  
13 tional Defense Authorization Act for Fiscal Year 2012  
14 (Public Law 112–81; 125 Stat. 1496; 10 U.S.C. 2302  
15 note), paragraph (1) of that section shall have no force  
16 or effect on or after the date of the enactment of this Act.

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

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

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

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

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

24                           “(G) U.S. Customs and Border Protection  
25 determines it is a technology, product, service,

1 device, component, or part thereof the importa-  
2 tion of which is prohibited under subsection  
3 (a)(2) or (b)(1) of section 1201 of title 17,  
4 United States Code.”.

5 (b) NOTIFICATION OF PERSONS INJURED.—

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

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

24 (3) REGULATIONS.—Not later than one year  
25 after the date of the enactment of this Act, the Sec-

1       retary of the Treasury shall prescribe regulations es-  
2       tablishing procedures that implement this sub-  
3       section.

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

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

19      **SEC. 305. NATIONAL INTELLECTUAL PROPERTY RIGHTS**  
20                   **COORDINATION CENTER.**

21      (a) ESTABLISHMENT.—The Secretary of Homeland  
22      Security shall—

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

1           (2) appoint an Assistant Director to head the  
2           National Intellectual Property Rights Coordination  
3           Center.

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

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

10          (2) conduct and coordinate training with other  
11          domestic and international law enforcement agencies  
12          on investigative best practices—

13                 (A) to develop and expand the capability of  
14                 such agencies to enforce intellectual property  
15                 rights; and

16                 (B) to develop metrics to assess whether  
17                 the training improved enforcement of intellec-  
18                 tual property rights;

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

23          (4) support the international interdiction of  
24          merchandise destined for the United States that in-  
25          fringes intellectual property rights;

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

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

9           (7) disseminate information regarding infringe-  
10 ment of intellectual property rights to other Federal  
11 agencies, as appropriate;

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

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

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

23       (c) COORDINATION WITH OTHER AGENCIES.—In  
24 carrying out the duties described in subsection (b), the As-



1 sistant Director of the National Intellectual Property  
2 Rights Coordination Center shall coordinate with—

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

17 (d) PRIVATE SECTOR OUTREACH.—

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

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

8   **SEC. 306. JOINT STRATEGIC PLAN FOR THE ENFORCEMENT**  
9                                   **OF INTELLECTUAL PROPERTY RIGHTS.**

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

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

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

22                 (3) a recommendation for the optimal allocation  
23                 of personnel, resources, and technology to ensure  
24                 that U.S. Customs and Border Protection and U.S.

1 Immigration and Customs Enforcement are ade-  
2 quately enforcing intellectual property rights.

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

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

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

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

21 (2) ensure that sufficient personnel are as-  
22 signed to United States ports of entry to carry out  
23 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, the Committee  
7 on Ways and Means of the House of Representatives, the  
8 Committee on Homeland Security and Governmental Af-  
9 fairs of the Senate, and the Committee on Homeland Se-  
10 curity of the House of Representatives a report that con-  
11 tains the following:

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

14 (A) The number of referrals, during the  
15 preceding year, from U.S. Customs and Border  
16 Protection to U.S. Immigration and Customs  
17 Enforcement relating to infringement of intel-  
18 lectual property rights .

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

25 (C) The number of such investigations ac-  
26 cepted by each such United States attorney and

1 the status or outcome of each such investiga-  
2 tion.

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

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

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

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

23 (A) the interdiction and investigation of,  
24 and the sharing of information between those

1 agencies and other Federal agencies to prevent,  
2 the infringement of intellectual property rights;

3 (B) collaboration with private sector enti-  
4 ties—

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

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

12 (iii) to develop best practices to en-  
13 force intellectual property rights; and

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

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



1           (5) A summary of training relating to the en-  
2           forcement of intellectual property rights conducted  
3           under section 308 and expenditures for such train-  
4           ing.

5 **SEC. 311. INFORMATION FOR TRAVELERS REGARDING VIO-**  
6                   **LATIONS OF INTELLECTUAL PROPERTY**  
7                   **RIGHTS.**

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

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

1 nal penalties and may pose serious risks to safety or  
2 health.

3 **TITLE IV—PREVENTION OF EVA-**  
4 **SION OF ANTIDUMPING AND**  
5 **COUNTERVAILING DUTY OR-**  
6 **DERS**

7 **SEC. 401. SHORT TITLE.**

8 This title may be cited as the “Preventing Recurring  
9 Trade Evasion and Circumvention Act” or “PROTECT  
10 Act”.

11 **SEC. 402. DEFINITIONS.**

12 In this title:

13 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
14 TEES.—The term “appropriate congressional com-  
15 mittees” means—

16 (A) the Committee on Finance and the  
17 Committee on Appropriations of the Senate;  
18 and

19 (B) the Committee on Ways and Means  
20 and the Committee on Appropriations of the  
21 House of Representatives.

22 (2) COVERED MERCHANDISE.—The term “cov-  
23 ered merchandise” means merchandise that is sub-  
24 ject to—

1 (A) a countervailing duty order issued  
2 under section 706 of the Tariff Act of 1930; or

3 (B) an antidumping duty order issued  
4 under section 736 of the Tariff Act of 1930.

5 (3) ELIGIBLE SMALL BUSINESS.—

6 (A) IN GENERAL.—The term “eligible  
7 small business” means any business concern  
8 which, in the Commissioner’s judgment, due to  
9 its small size, has neither adequate internal re-  
10 sources nor financial ability to obtain qualified  
11 outside assistance in preparing and submitting  
12 for consideration allegations of evasion.

13 (B) NONREVIEWABILITY.—Any agency de-  
14 cision regarding whether a business concern is  
15 an eligible small business for purposes of sec-  
16 tion 411(b)(4)(E) is not reviewable by any  
17 other agency or by any court.

18 (4) ENTER; ENTRY.—The terms “enter” and  
19 “entry” refer to the entry, or withdrawal from ware-  
20 house for consumption, in the customs territory of  
21 the United States.

22 (5) EVADE; EVASION.—The terms “evade” and  
23 “evasion” refer to entering covered merchandise into  
24 the customs territory of the United States by means  
25 of any document or electronically transmitted data

1 or information, written or oral statement, or act that  
2 is material and false, or any omission that is mate-  
3 rial, and that results in any cash deposit or other se-  
4 curity or any amount of applicable antidumping or  
5 countervailing duties being reduced or not being ap-  
6 plied with respect to the merchandise.

7 (6) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Treasury.

9 (7) TRADE REMEDY LAWS.—The term “trade  
10 remedy laws” means title VII of the Tariff Act of  
11 1930.

12 **SEC. 403. APPLICATION TO CANADA AND MEXICO.**

13 Pursuant to article 1902 of the North American Free  
14 Trade Agreement and section 408 of the North American  
15 Free Trade Agreement Implementation Act (19 U.S.C.  
16 3438), this title and the amendments made by this title  
17 shall apply with respect to goods from Canada and Mexico.

18 **Subtitle A—Actions Relating to En-**  
19 **forcement of Trade Remedy**  
20 **Laws**

21 **SEC. 411. TRADE REMEDY LAW ENFORCEMENT DIVISION.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—The Secretary of Homeland  
24 Security shall establish and maintain within the Of-  
25 fice of International Trade of U.S. Customs and

1 Border Protection, established under section 2(d) of  
2 the Act of March 3, 1927 (44 Stat. 1381, chapter  
3 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-  
4 forcement Division.

5 (2) COMPOSITION.—The Trade Law Remedy  
6 Enforcement Division shall be composed of—

7 (A) headquarters personnel led by a Direc-  
8 tor, who shall report to the Assistant Commis-  
9 sioner of the Office of International Trade; and

10 (B) a National Targeting and Analysis  
11 Group dedicated to preventing and countering  
12 evasion.

13 (3) DUTIES.—The Trade Remedy Law Enforce-  
14 ment Division shall be dedicated—

15 (A) to the development and administration  
16 of policies to prevent and counter evasion;

17 (B) to direct enforcement and compliance  
18 assessment activities concerning evasion;

19 (C) to the development and conduct of  
20 commercial risk assessment targeting with re-  
21 spect to cargo destined for the United States in  
22 accordance with subsection (c);

23 (D) to issuing Trade Alerts described in  
24 subsection (d); and

1           (E) to the development of policies for the  
2           application of single entry and continuous  
3           bonds for entries of covered merchandise to suf-  
4           ficiently protect the collection of antidumping  
5           and countervailing duties commensurate with  
6           the level of risk of noncollection.

7           (b) DUTIES OF DIRECTOR.—The duties of the Direc-  
8           tor of the Trade Remedy Law Enforcement Division shall  
9           include—

10           (1) directing the trade enforcement and compli-  
11           ance assessment activities of U.S. Customs and Bor-  
12           der Protection that concern evasion;

13           (2) facilitating, promoting, and coordinating co-  
14           operation and the exchange of information between  
15           U.S. Customs and Border Protection, U.S. Immigra-  
16           tion and Customs Enforcement, and other relevant  
17           agencies regarding evasion;

18           (3) notifying on a timely basis the admin-  
19           istering authority (as defined in section 771(1) of  
20           the Tariff Act of 1930 (19 U.S.C. 1677(1))) and the  
21           Commission (as defined in section 771(2) of the  
22           Tariff Act of 1930 (19 U.S.C. 1677(2))) of any  
23           finding, determination, civil action, or criminal ac-  
24           tion taken by U.S. Customs and Border Protection  
25           or other Federal agency regarding evasion;

1           (4) serving as the primary liaison between U.S.  
2 Customs and Border Protection and the public re-  
3 garding United States Government activities con-  
4 cerning evasion, including—

5           (A) receive and transmit to the appropriate  
6 U.S. Customs and Border Protection office alle-  
7 gations from parties of evasion;

8           (B) upon request by the party or parties  
9 that submitted an allegation of evasion, provide  
10 information to such party or parties on the sta-  
11 tus of U.S. Customs and Border Protection's  
12 consideration of the allegation and decision to  
13 pursue or not pursue any administrative inquir-  
14 ies or other actions, such as changes in policies,  
15 procedures, or resource allocation as a result of  
16 the allegation;

17           (C) as needed, request from the party or  
18 parties that submitted an allegation of evasion  
19 any additional information that may be relevant  
20 for U.S. Customs and Border Protection deter-  
21 mining whether to initiate an administrative in-  
22 quiry or take any other action regarding the al-  
23 legation;

24           (D) notify on a timely basis the party or  
25 parties that submitted such an allegation of the

1 results of any administrative, civil or criminal  
2 actions taken by U.S. Customs and Border Pro-  
3 tection or other Federal agency regarding eva-  
4 sion as a direct or indirect result of the allega-  
5 tion;

6 (E) upon request, provide technical assist-  
7 ance and advice to eligible small businesses to  
8 enable such businesses to prepare and submit  
9 allegations of evasion, except that the Director  
10 may deny assistance if the Director concludes  
11 that the allegation, if submitted, would not lead  
12 to the initiation of an administrative inquiry or  
13 any other action to address the allegation;

14 (F) in cooperation with the public, the  
15 Commercial Customs Operations Advisory Com-  
16 mittee, the Trade Support Network, and any  
17 other relevant parties and organizations, de-  
18 velop guidelines on the types and nature of in-  
19 formation that may be provided in allegations  
20 of evasion; and

21 (G) regularly consult with the public, the  
22 Commercial Customs Operations Advisory Com-  
23 mittee, the Trade Support Network, and any  
24 other relevant parties and organizations regard-  
25 ing the development and implementation of reg-



1           ulations, interpretations, and policies related to  
2           countering evasion.

3           (c) PREVENTING AND COUNTERING EVASION OF THE  
4 TRADE REMEDY LAWS.—In carrying out its duties with  
5 respect to preventing and countering evasion, the National  
6 Targeting and Analysis Group dedicated to preventing and  
7 countering evasion shall—

8           (1) establish targeted risk assessment meth-  
9 odologies and standards—

10           (A) for evaluating the risk that cargo des-  
11 tined for the United States may constitute  
12 evading covered merchandise; and

13           (B) for issuing, as appropriate, Trade  
14 Alerts described in subsection (d); and

15           (2) to the extent practicable and otherwise au-  
16 thORIZED by law, use information available from the  
17 Automated Commercial System, the Automated  
18 Commercial Environment computer system, the  
19 Automated Targeting System, the Automated Ex-  
20 port System, the International Trade Data System,  
21 and the TECS, and any similar and successor sys-  
22 tems, to administer the methodologies and standards  
23 established under paragraph (1).

24           (d) TRADE ALERTS.—Based upon the application of  
25 the targeted risk assessment methodologies and standards

1 established under subsection (c), the Director of the Trade  
2 Remedy Law Enforcement Division shall issue Trade  
3 Alerts or other such means of notification to directors of  
4 United States ports of entry directing further inspection,  
5 physical examination, or testing of merchandise to ensure  
6 compliance with the trade remedy laws and to require ad-  
7 ditional bonds, cash deposits, or other security to ensure  
8 collection of any duties, taxes and fees owed.

9 **SEC. 412. COLLECTION OF INFORMATION ON EVASION OF**  
10 **TRADE REMEDY LAWS.**

11 (a) **AUTHORITY TO COLLECT INFORMATION.**—To de-  
12 termine whether covered merchandise is being entered into  
13 the customs territory of the United States through eva-  
14 sion, the Secretary, acting through the Commissioner—

15 (1) shall exercise all existing authorities to col-  
16 lect information needed to make the determination;  
17 and

18 (2) may collect such additional information as  
19 is necessary to make the determination through such  
20 methods as the Commissioner considers appropriate,  
21 including by issuing questionnaires with respect to  
22 the entry or entries at issue to—

23 (A) a person who filed an allegation with  
24 respect to the covered merchandise;

1 (B) a person who is alleged to have en-  
2 tered the covered merchandise into the customs  
3 territory of the United States through evasion;  
4 or

5 (C) any other person who is determined to  
6 have information relevant to the allegation of  
7 entry of covered merchandise into the customs  
8 territory of the United States through evasion.

9 (b) ADVERSE INFERENCE.—

10 (1) IN GENERAL.—If the Secretary finds that a  
11 person who filed an allegation, a person alleged to  
12 have entered covered merchandise into the customs  
13 territory of the United States through evasion, or a  
14 foreign producer or exporter of covered merchandise  
15 that is alleged to have entered into the customs ter-  
16 ritory of the United States through evasion, has  
17 failed to cooperate by not acting to the best of the  
18 person's ability to comply with a request for infor-  
19 mation, the Secretary may, in making a determina-  
20 tion whether an entry or entries of covered merchan-  
21 dise may constitute merchandise that is entered into  
22 the customs territory of the United States through  
23 evasion, use an inference that is adverse to the inter-  
24 ests of that person in selecting from among the facts

1 otherwise available to determine whether evasion has  
2 occurred.

3 (2) ADVERSE INFERENCE DESCRIBED.—An ad-  
4 verse inference used under paragraph (1) may in-  
5 clude reliance on information derived from—

6 (A) the allegation of evasion of the trade  
7 remedy laws, if any, submitted to U.S. Customs  
8 and Border Protection;

9 (B) a determination by the Commissioner  
10 in another investigation, proceeding, or other  
11 action regarding evasion of the unfair trade  
12 laws; or

13 (C) any other available information.

14 **SEC. 413. ACCESS TO INFORMATION.**

15 (a) IN GENERAL.—Section 777(b)(1)(A)(ii) of the  
16 Tariff Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is  
17 amended by inserting “negligence, gross negligence, or”  
18 after “regarding”.

19 (b) ADDITIONAL INFORMATION.—Notwithstanding  
20 any other provision of law, the Secretary is authorized to  
21 provide to the Secretary of Commerce or the United States  
22 International Trade Commission any information that is  
23 necessary to enable the Secretary of Commerce or the  
24 United States International Trade Commission to assist  
25 the Secretary to identify, through risk assessment tar-

1 getting or otherwise, covered merchandise that is entered  
2 into the customs territory of the United States through  
3 evasion.

4 **SEC. 414. COOPERATION WITH FOREIGN COUNTRIES ON**  
5 **PREVENTING EVASION OF TRADE REMEDY**  
6 **LAWS.**

7 (a) BILATERAL AGREEMENTS.—

8 (1) IN GENERAL.—The Secretary shall seek to  
9 negotiate and enter into bilateral agreements with  
10 the customs authorities or other appropriate authori-  
11 ties of foreign countries for purposes of cooperation  
12 on preventing evasion of the trade remedy laws of  
13 the United States and the trade remedy laws of the  
14 other country.

15 (2) PROVISIONS AND AUTHORITIES.—The Sec-  
16 retary shall seek to include in each such bilateral  
17 agreement the following provisions and authorities:

18 (A) On the request of the importing coun-  
19 try, the exporting country shall provide, con-  
20 sistent with its laws, regulations, and proce-  
21 dures, production, trade, and transit documents  
22 and other information necessary to determine  
23 whether an entry or entries exported from the  
24 exporting country are subject to the importing  
25 country's trade remedy laws.

1           (B) On the written request of the import-  
2           ing country, the exporting country shall conduct  
3           a verification for purposes of enabling the im-  
4           porting country to make a determination de-  
5           scribed in subparagraph (A).

6           (C) The exporting country may allow the  
7           importing country to participate in a  
8           verification described in subparagraph (B), in-  
9           cluding through a site visit.

10          (D) If the exporting country does not allow  
11          participation of the importing country in a  
12          verification described in subparagraph (B), the  
13          importing country may take this fact into con-  
14          sideration in its trade enforcement and compli-  
15          ance assessment activities regarding the compli-  
16          ance of the exporting country's exports with the  
17          importing country's trade remedy laws.

18          (b) CONSIDERATION.—The Commissioner is author-  
19          ized to take into consideration whether a country is a sig-  
20          natory to a bilateral agreement described in subsection (a)  
21          and the extent to which the country is cooperating under  
22          the bilateral agreement for purposes of trade enforcement  
23          and compliance assessment activities of U.S. Customs and  
24          Border Protection that concern evasion by such country's  
25          exports.

1 (c) REPORT.—Not later than December 31 of each  
2 year beginning after the date of the enactment of this Act,  
3 the Secretary shall submit to the appropriate congress-  
4 sional committees a report summarizing—

5 (1) the status of any ongoing negotiations of bi-  
6 lateral agreements described in subsection (a), in-  
7 cluding the identities of the countries involved in  
8 such negotiations;

9 (2) the terms of any completed bilateral agree-  
10 ments described in subsection (a); and

11 (3) bilateral cooperation and other activities  
12 conducted pursuant to or enabled by any completed  
13 bilateral agreements described in subsection (a).

14 **SEC. 415. TRADE NEGOTIATING OBJECTIVES.**

15 The principal negotiating objectives of the United  
16 States shall include obtaining the objectives of the bilat-  
17 eral agreements described under section 414(a) for any  
18 trade agreements under negotiation as of the date of the  
19 enactment of this Act or future trade agreement negotia-  
20 tions.

1           **Subtitle B—Investigation of**  
2           **Evasion of Trade Remedy Laws**

3   **SEC. 421. PROCEDURES FOR INVESTIGATION OF EVASION**  
4                   **OF ANTIDUMPING AND COUNTERVAILING**  
5                   **DUTY ORDERS.**

6           (a) IN GENERAL.—Title VII of the Tariff Act of  
7 1930 (19 U.S.C. 1671 et seq.) is amended by inserting  
8 after section 781 the following:

9   **“SEC. 781A. PROCEDURES FOR PREVENTION OF EVASION**  
10                   **OF ANTIDUMPING AND COUNTERVAILING**  
11                   **DUTY ORDERS.**

12           “(a) DEFINITIONS.—In this section:

13                   “(1) ADMINISTERING AUTHORITY.—The term  
14           ‘administering authority’ has the meaning given that  
15           term in section 771.

16                   “(2) COMMISSIONER.—The term ‘Commis-  
17           sioner’ means the Commissioner of U.S. Customs  
18           and Border Protection.

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

22                           “(A) a countervailing duty order issued  
23                           under section 706; or

24                           “(B) an antidumping duty order issued  
25                           under section 736.



1 “(4) EVASION.—

2 “(A) IN GENERAL.—Except as provided in  
3 subparagraph (B), the term ‘evasion’ refers to  
4 entering covered merchandise into the customs  
5 territory of the United States by means of any  
6 document or electronically transmitted data or  
7 information, written or oral statement, or act  
8 that is material and false, or any omission that  
9 is material, and that results in any cash deposit  
10 or other security or any amount of applicable  
11 antidumping or countervailing duties being re-  
12 duced or not being applied with respect to the  
13 merchandise.

14 “(B) EXCEPTION FOR CLERICAL ERROR.—

15 “(i) IN GENERAL.—Except as pro-  
16 vided in clause (ii), the term ‘evasion’ does  
17 not include entering covered merchandise  
18 into the customs territory of the United  
19 States by means of—

20 “(I) a document or electronically  
21 transmitted data or information, writ-  
22 ten or oral statement, or act that is  
23 false as a result of a clerical error; or

24 “(II) an omission that results  
25 from a clerical error.

1           “(ii) PATTERNS OF NEGLIGENT CON-  
2           DUCT.—If the administering authority de-  
3           termines that a person has entered covered  
4           merchandise into the customs territory of  
5           the United States by means of a clerical  
6           error referred to in subclause (I) or (II) of  
7           clause (i) and that the clerical error is part  
8           of a pattern of negligent conduct on the  
9           part of that person, the administering au-  
10          thority may determine, notwithstanding  
11          clause (i), that the person has entered such  
12          covered merchandise into the customs ter-  
13          ritory of the United States by means of  
14          evasion.

15          “(iii) ELECTRONIC REPETITION OF  
16          ERRORS.—For purposes of clause (ii), the  
17          mere unintentional repetition by an elec-  
18          tronic system of an initial clerical error  
19          does not constitute a pattern of negligent  
20          conduct.

21          “(iv) RULE OF CONSTRUCTION.—A  
22          determination by the administering author-  
23          ity that a person has entered covered mer-  
24          chandise into the customs territory of the  
25          United States by means of a clerical error

1                   referred to in subclause (I) or (II) of  
2                   clause (i) rather than by means of evasion  
3                   shall not be construed to excuse that per-  
4                   son from the payment of any duties appli-  
5                   cable to the merchandise.

6           “(b) INVESTIGATION BY ADMINISTERING AUTHOR-  
7   ITY.—

8                   “(1) PROCEDURES FOR INITIATING INVESTIGA-  
9   TIONS.—

10                   “(A) INITIATION BY ADMINISTERING AU-  
11   THORITY.—An investigation under this sub-  
12   section shall be initiated with respect to mer-  
13   chandise imported into the United States when-  
14   ever the administering authority determines,  
15   from information available to the administering  
16   authority, that an investigation is warranted  
17   with respect to whether the merchandise is cov-  
18   ered merchandise that has entered into the cus-  
19   toms territory of the United States by means of  
20   evasion.

21                   “(B) INITIATION BY PETITION OR REFER-  
22   RAL.—

23                   “(i) IN GENERAL.—The administering  
24   authority shall determine whether to ini-  
25   tiate an investigation under this subpara-

1 graph not later than 30 days after the date  
2 on which the administering authority re-  
3 ceives a petition described in clause (ii) or  
4 a referral described in clause (iii).

5 “(ii) PETITION DESCRIBED.—A peti-  
6 tion described in this clause is a petition  
7 that—

8 “(I) is filed with the admin-  
9 istering authority by an interested  
10 party specified in subparagraph (A),  
11 (C), (D), (E), (F), or (G) of section  
12 771(9);

13 “(II) alleges that merchandise  
14 imported into the United States is  
15 covered merchandise that has entered  
16 into the customs territory of the  
17 United States by means of evasion;  
18 and

19 “(III) is accompanied by infor-  
20 mation reasonably available to the pe-  
21 titioner supporting those allegations.

22 “(iii) REFERRAL DESCRIBED.—A re-  
23 ferral described in this clause is a referral  
24 made by the Commissioner pursuant to  
25 subsection (c)(1).

1           “(2) TIME LIMITS FOR DETERMINATIONS.—

2           “(A) PRELIMINARY DETERMINATION.—

3           “(i) IN GENERAL.—Not later than 90  
4           days after the administering authority ini-  
5           tiates an investigation under paragraph (1)  
6           with respect to merchandise, the admin-  
7           istering authority shall issue a preliminary  
8           determination, based on information avail-  
9           able to the administering authority at the  
10          time of the determination, with respect to  
11          whether there is a reasonable basis to be-  
12          lieve or suspect that the merchandise is  
13          covered merchandise that has entered into  
14          the customs territory of the United States  
15          by means of evasion.

16          “(ii) EXPEDITED PROCEDURES.—If  
17          the administering authority determines  
18          that expedited action is warranted with re-  
19          spect to an investigation initiated under  
20          paragraph (1), the administering authority  
21          may publish the notice of initiation of the  
22          investigation and the notice of the prelimi-  
23          nary determination in the Federal Register  
24          at the same time.

1           “(B) FINAL DETERMINATION BY THE AD-  
2           MINISTERING AUTHORITY.—Not later than 300  
3           days after the date on which the administering  
4           authority initiates an investigation under para-  
5           graph (1) with respect to merchandise, the ad-  
6           ministering authority shall issue a final deter-  
7           mination with respect to whether the merchan-  
8           dise is covered merchandise that has entered  
9           into the customs territory of the United States  
10          by means of evasion.

11          “(3) ACCESS TO INFORMATION.—

12           “(A) ENTRY DOCUMENTS, RECORDS, AND  
13           OTHER INFORMATION.—Not later than 10 days  
14           after receiving a request from the administering  
15           authority with respect to merchandise that is  
16           the subject of an investigation under paragraph  
17           (1), the Commissioner shall transmit to the ad-  
18           ministering authority copies of the documenta-  
19           tion and information required by section  
20           484(a)(1) with respect to the entry of the mer-  
21           chandise, as well as any other documentation or  
22           information requested by the administering au-  
23           thority.

24           “(B) ACCESS OF INTERESTED PARTIES.—  
25          Not later than 10 business days after the date

1 on which the administering authority initiates  
2 an investigation under paragraph (1) with re-  
3 spect to merchandise, the administering author-  
4 ity shall provide to the authorized representa-  
5 tive of each interested party that filed a petition  
6 under paragraph (1) or otherwise participates  
7 in a proceeding, pursuant to a protective order,  
8 the copies of the entry documentation and any  
9 other information received by the administering  
10 authority under subparagraph (A).

11 “(C) BUSINESS PROPRIETARY INFORMA-  
12 TION FROM PRIOR SEGMENTS.—If an author-  
13 ized representative of an interested party par-  
14 ticipating in an investigation under paragraph  
15 (1) has access to business proprietary informa-  
16 tion released pursuant to an administrative pro-  
17 tective order in a proceeding under subtitle A,  
18 B, or C of title VII of the Tariff Act of 1930  
19 that is relevant to the investigation conducted  
20 under paragraph (1), that authorized represent-  
21 ative may submit such information to the ad-  
22 ministering authority for its consideration in  
23 the context of the investigation conducted under  
24 paragraph (1).

1           “(4) AUTHORITY TO COLLECT AND VERIFY AD-  
2           DITIONAL INFORMATION.—In making a determina-  
3           tion under paragraph (2) with respect to covered  
4           merchandise, the administering authority may collect  
5           such additional information as is necessary to make  
6           the determination through such methods as the ad-  
7           ministering authority considers appropriate, includ-  
8           ing by—

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

11                           “(i) a person that filed an allegation  
12                           under paragraph (1)(B)(ii) that resulted in  
13                           the initiation of an investigation under  
14                           paragraph (1)(A) with respect to such cov-  
15                           ered merchandise;

16                           “(ii) a person alleged to have entered  
17                           such covered merchandise into the customs  
18                           territory of the United States by means of  
19                           evasion;

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

23                           “(iv) the government of a country  
24                           from which such covered merchandise was  
25                           exported;



1           “(B) conducting verifications, including on-  
2           site verifications, of any relevant information;  
3           and

4           “(C) requesting—

5                   “(i) that the Commissioner provide  
6                   any information and data available to U.S.  
7                   Customs and Border Protection, and

8                   “(ii) that the Commissioner gather  
9                   additional necessary information from the  
10                  importer of covered merchandise and other  
11                  relevant parties.

12           “(5) ADVERSE INFERENCE.—If the admin-  
13           istering authority finds that a person described in  
14           clause (i), (ii), or (iii) of paragraph (4)(A) has failed  
15           to cooperate by not acting to the best of the person’s  
16           ability to comply with a request for information, the  
17           administering authority may, in making a deter-  
18           mination under paragraph (2), use an inference that  
19           is adverse to the interests of that person in selecting  
20           from among the facts otherwise available to make  
21           the determination.

22           “(6) EFFECT OF AFFIRMATIVE PRELIMINARY  
23           DETERMINATION.—If the administering authority  
24           makes a preliminary determination under paragraph  
25           (2)(A) that merchandise is covered merchandise that

1 has entered into the customs territory of the United  
2 States by means of evasion, the administering au-  
3 thority shall instruct U.S. Customs and Border Pro-  
4 tection—

5 “(A) to suspend liquidation of each entry  
6 of the merchandise that—

7 “(i) enters on or after the date of the  
8 preliminary determination; or

9 “(ii) enters before that date, if the liq-  
10 uidation of the entry is not final on that  
11 date; and

12 “(B) to require the posting of a cash de-  
13 posit for each entry of the merchandise in an  
14 amount determined pursuant to the order, or  
15 administrative review conducted under section  
16 751, that applies to the merchandise.

17 “(7) EFFECT OF AFFIRMATIVE FINAL DETER-  
18 MINATION.—

19 “(A) IN GENERAL.—If the administering  
20 authority makes a final determination under  
21 paragraph (2)(B) that merchandise is covered  
22 merchandise that has entered into the customs  
23 territory of the United States by means of eva-  
24 sion, the administering authority shall instruct  
25 U.S. Customs and Border Protection—

1           “(i) to assess duties on the merchan-  
2           dise in an amount determined pursuant to  
3           the order, or administrative review con-  
4           ducted under section 751, that applies to  
5           the merchandise;

6           “(ii) notwithstanding section 501, to  
7           reliquidate, in accordance with such order  
8           or administrative review, each entry of the  
9           merchandise that was liquidated and is de-  
10          termined to include covered merchandise;  
11          and

12          “(iii) to review and reassess the  
13          amount of bond or other security the im-  
14          porter is required to post for such mer-  
15          chandise entered on or after the date of  
16          the final determination to ensure the pro-  
17          tection of revenue and compliance with the  
18          law.

19          “(B) **ADDITIONAL AUTHORITY.**—If the ad-  
20          ministering authority makes a final determina-  
21          tion under paragraph (2)(B) that merchandise  
22          is covered merchandise that has entered into  
23          the customs territory of the United States by  
24          means of evasion, the administering authority  
25          may instruct U.S. Customs and Border Protec-

1           tion to require the importer of the merchandise  
2           to post a cash deposit or bond on such mer-  
3           chandise entered on or after the date of the  
4           final determination in an amount the admin-  
5           istering authority determines in the final deter-  
6           mination to be owed with respect to the mer-  
7           chandise.

8           “(8) EFFECT OF NEGATIVE FINAL DETERMINA-  
9           TION.—If the administering authority makes a final  
10          determination under paragraph (2)(B) that mer-  
11          chandise is not covered merchandise that has en-  
12          tered into the customs territory of the United States  
13          by means of evasion, the administering authority  
14          shall terminate the suspension of liquidation and re-  
15          fund any cash deposit imposed pursuant to para-  
16          graph (6) with respect to the merchandise.

17          “(9) NOTIFICATION.—Not later than 5 business  
18          days after making a determination under paragraph  
19          (2) with respect to covered merchandise, the admin-  
20          istering authority may provide to importers, in such  
21          manner as the administering authority determines  
22          appropriate, information discovered in the investiga-  
23          tion that the administering authority determines will  
24          help educate importers with respect to importing  
25          merchandise into the customs territory of the United

1 States in accordance with all applicable laws and  
2 regulations.

3 “(10) SPECIAL RULE FOR CASES IN WHICH THE  
4 PRODUCER OR EXPORTER IS UNKNOWN.—If the ad-  
5 ministering authority is unable to determine the ac-  
6 tual producer or exporter of the merchandise with  
7 respect to which the administering authority initi-  
8 ated an investigation under paragraph (1), the ad-  
9 ministering authority shall, in requiring the posting  
10 of a cash deposit under paragraph (6) or assessing  
11 duties pursuant to paragraph (7)(A), impose the  
12 cash deposit or duties (as the case may be) in the  
13 highest amount applicable to any producer or ex-  
14 porter of the merchandise pursuant to any order, or  
15 any administrative review conducted under section  
16 751.

17 “(11) PUBLICATION OF DETERMINATIONS.—  
18 The administering authority shall publish in the  
19 Federal Register each notice of initiation of an in-  
20 vestigation made under paragraph (1)(A), each pre-  
21 liminary determination made under paragraph  
22 (2)(A), and each final determination made under  
23 paragraph (2)(B).

24 “(12) REFERRALS TO OTHER AGENCIES.—

1           “(A) AFTER PRELIMINARY DETERMINA-  
2           TION.—Notwithstanding section 777 and sub-  
3           ject to subparagraph (C), when the admin-  
4           istering authority makes an affirmative prelimi-  
5           nary determination under paragraph (2)(A), the  
6           administering authority shall—

7                   “(i) transmit the administrative  
8                   record to the Commissioner for such addi-  
9                   tional action as the Commissioner deter-  
10                  mines appropriate, including proceedings  
11                  under section 592; and

12                   “(ii) at the request of the head of an-  
13                  other agency, transmit the administrative  
14                  record to the head of that agency.

15           “(B) AFTER FINAL DETERMINATION.—  
16           Notwithstanding section 777 and subject to  
17           subparagraph (C), when the administering au-  
18           thority makes an affirmative final determina-  
19           tion under paragraph (2)(B), the administering  
20           authority shall—

21                   “(i) transmit the complete administra-  
22                   tive record to the Commissioner; and

23                   “(ii) at the request of the head of an-  
24                  other agency, transmit the complete ad-

1                   ministrative record to the head of that  
2                   agency.

3           “(c) REFERRAL BY U.S. CUSTOMS AND BORDER  
4 PROTECTION.—In the event the Commissioner receives in-  
5 formation that a person has entered covered merchandise  
6 into the customs territory of the United States through  
7 evasion, but is not able to determine whether the merchan-  
8 dise is in fact covered merchandise, the Commissioner  
9 shall—

10                   “(1) refer the matter to the administering au-  
11 thority for additional proceedings under subsection  
12 (b); and

13                   “(2) transmit to the administering authority—

14                           “(A) copies of the entry documents and in-  
15 formation required by section 484(a)(1) relating  
16 to the merchandise; and

17                           “(B) any additional records or information  
18 that the Commissioner considers appropriate.

19           “(d) COOPERATION BETWEEN U.S. CUSTOMS AND  
20 BORDER PROTECTION AND THE DEPARTMENT OF COM-  
21 MERCE.—

22                   “(1) NOTIFICATION OF INVESTIGATIONS.—  
23 Upon receiving a petition and upon initiating an in-  
24 vestigation under subsection (b), the administering  
25 authority shall notify the Commissioner.

1           “(2) PROCEDURES FOR COOPERATION.—Not  
2 later than 180 days after the date of the enactment  
3 of the Trade Facilitation and Trade Enforcement  
4 Act of 2015, the Commissioner and the admin-  
5 istering authority shall establish procedures to en-  
6 sure maximum cooperation and communication be-  
7 tween U.S. Customs and Border Protection and the  
8 administering authority in order to quickly, effi-  
9 ciently, and accurately investigate allegations of eva-  
10 sion of antidumping and countervailing duty orders.

11           “(e) ANNUAL REPORT ON PREVENTING EVASION OF  
12 ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.—

13           “(1) IN GENERAL.—Not later than February  
14 28 of each year beginning in 2016, the Under Sec-  
15 retary for International Trade of the Department of  
16 Commerce shall submit to the Committee on Fi-  
17 nance and the Committee on Appropriations of the  
18 Senate and the Committee on Ways and Means and  
19 the Committee on Appropriations of the House of  
20 Representatives a report on the efforts being taken  
21 under subsection (b) to prevent evasion of anti-  
22 dumping and countervailing duty orders.

23           “(2) CONTENTS.—Each report required by  
24 paragraph (1) shall include, for the calendar year  
25 preceding the submission of the report—



1           “(A)(i) the number of investigations initi-  
2           ated pursuant to subsection (b); and

3           “(ii) a description of such investigations,  
4           including—

5                   “(I) the results of such investigations;  
6           and

7                   “(II) the amount of antidumping and  
8           countervailing duties collected as a result  
9           of such investigations; and

10           “(B) the number of referrals made by the  
11           Commissioner pursuant to subsection (c).”.

12           (b) TECHNICAL AMENDMENT.—The table of contents  
13 for title VII of the Tariff Act of 1930 is amended by in-  
14 serting after the item relating to section 781 the following:

          “Sec. 781A. Procedures for prevention of evasion of antidumping and counter-  
          vailing duty orders.”.

15           (c) JUDICIAL REVIEW.—Section 516A(a)(2) of the  
16 Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

17                   (1) in subparagraph (A)(i)(I), by striking “or  
18           (viii)” and inserting “(viii), or (ix)”; and

19                   (2) in subparagraph (B), by inserting at the  
20           end the following:

21                           “(ix) A determination by the admin-  
22                           istering authority under section 781A.”.

23           (d) REGULATIONS.—Not later than 180 days after  
24 the date of the enactment of this Act—



1           (2) the actions taken and procedures developed  
2           by the Secretary of Commerce and the Commis-  
3           sioner pursuant to such provisions and amendments  
4           to prevent evasion of antidumping and counter-  
5           vailing duty orders under title VII of the Tariff Act  
6           of 1930 (19 U.S.C. 1671 et seq.).

## 7           **Subtitle C—Other Matters**

### 8   **SEC. 431. ALLOCATION AND TRAINING OF PERSONNEL.**

9           The Commissioner shall, to the maximum extent pos-  
10          sible, ensure that U.S. Customs and Border Protection—

11           (1) employs sufficient personnel who have ex-  
12           pertise in, and responsibility for, preventing and in-  
13           vestigating the entry of covered merchandise into the  
14           customs territory of the United States through eva-  
15           sion;

16           (2) on the basis of risk assessment metrics, as-  
17           signs sufficient personnel with primary responsibility  
18           for preventing the entry of covered merchandise into  
19           the customs territory of the United States through  
20           evasion to the ports of entry in the United States at  
21           which the Commissioner determines potential eva-  
22           sion presents the most substantial threats to the rev-  
23           enue of the United States; and

24           (3) provides adequate training to relevant per-  
25           sonnel to increase expertise and effectiveness in the

1 prevention and identification of entries of covered  
2 merchandise into the customs territory of the United  
3 States through evasion.

4 **SEC. 432. ANNUAL REPORT ON PREVENTION OF EVASION**  
5 **OF ANTIDUMPING AND COUNTERVAILING**  
6 **DUTY ORDERS.**

7 (a) IN GENERAL.—Not later than February 28 of  
8 each year, beginning in 2016, the Commissioner, in con-  
9 sultation with the Secretary of Commerce and the Director  
10 of U.S. Immigration and Customs Enforcement, shall sub-  
11 mit to the appropriate congressional committees a report  
12 on the efforts being taken to prevent and investigate eva-  
13 sion.

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

16 (1) for the calendar year preceding the submis-  
17 sion of the report—

18 (A) a summary of the efforts of U.S. Cus-  
19 toms and Border Protection to prevent and  
20 identify evasion;

21 (B) the number of allegations of evasion  
22 received and the number of allegations of eva-  
23 sion resulting in any administrative, civil, or  
24 criminal actions by U.S. Customs and Border  
25 Protection or any other agency;

1 (C) a summary of the completed adminis-  
2 trative inquiries of evasion, including the num-  
3 ber and nature of the inquiries initiated, con-  
4 ducted, or completed, as well as their resolu-  
5 tion;

6 (D) with respect to inquiries that lead to  
7 issuance of a penalty notice, the penalty  
8 amounts;

9 (E) the amounts of antidumping and coun-  
10 tervailing duties collected as a result of any ac-  
11 tions by U.S. Customs and Border Protection  
12 or any other agency;

13 (F) a description of the allocation of per-  
14 sonnel and other resources of U.S. Customs and  
15 Border Protection and U.S. Immigration and  
16 Customs Enforcement to prevent, identify, and  
17 investigate evasion, including any assessments  
18 conducted regarding the allocation of such per-  
19 sonnel and resources; and

20 (G) a description of training conducted to  
21 increase expertise and effectiveness in the pre-  
22 vention, identification, and investigation of eva-  
23 sion; and

1           (2) a description of U.S. Customs and Border  
2 Protection processes and procedures to prevent and  
3 identify evasion, including—

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

9           (B) an evaluation of the efficacy of such  
10 existing guidelines, policies, and practices;

11           (C) identification of any changes since the  
12 last report that have materially improved or re-  
13 duced the effectiveness of U.S. Customs and  
14 Border Protection to prevent and identify eva-  
15 sion;

16           (D) a description of the development and  
17 implementation of policies for the application of  
18 single entry and continuous bonds for entries of  
19 covered merchandise to sufficiently protect the  
20 collection of antidumping and countervailing  
21 duties commensurate with the level of risk on  
22 noncollection;

23           (E) the processes and procedures for in-  
24 creased cooperation and information sharing  
25 with the Department of Commerce, U.S. Immi-

1           gration and Customs Enforcement, and any  
2           other relevant Federal agencies to prevent and  
3           identify evasion; and

4                   (F) identification of any recommended pol-  
5           icy changes of other Federal agencies or legisla-  
6           tive changes to improve the effectiveness of  
7           U.S. Customs and Border Protection to prevent  
8           and identify evasion.

9   **SEC. 433. ADDRESSING CIRCUMVENTION BY NEW SHIP-**  
10                   **PERS.**

11           Section 751(a)(2)(B) of the Tariff Act of 1930 (19  
12   U.S.C. 1675(a)(2)(B)) is amended—

13                   (1) by striking clause (iii);

14                   (2) by redesignating clause (iv) as clause (iii);

15           and

16                   (3) inserting after clause (iii), as redesignated  
17   by paragraph (2) of this section, the following:

18                           “(iv) DETERMINATIONS BASED ON  
19                           BONAFIDE SALES.—Any weighted average  
20                           dumping margin or individual counter-  
21                           vailing duty rate determined for an ex-  
22                           porter or producer in a review conducted  
23                           under clause (i) shall be based solely on  
24                           the bona fide United States sales of an ex-  
25                           porter or producer, as the case may be,

1           made during the period covered by the re-  
2           view. In determining whether the United  
3           States sales of an exporter or producer  
4           made during the period covered by the re-  
5           view were bona fide, the administering au-  
6           thority shall consider, depending on the  
7           circumstances surrounding such sales—

8                       “(I) the prices of such sales;

9                       “(II) whether such sales were  
10           made in commercial quantities;

11                      “(III) the timing of such sales;

12                      “(IV) the expenses arising from  
13           such sales;

14                      “(V) whether the subject mer-  
15           chandise involved in such sales was  
16           resold in the United States at a prof-  
17           it;

18                      “(VI) whether such sales were  
19           made on an arms-length basis; and

20                      “(VII) any other factor the ad-  
21           ministring authority determines to be  
22           relevant as to whether such sales are,  
23           or are not, likely to be typical of those  
24           the exporter or producer will make  
25           after completion of the review.”.



1 **TITLE V—IMPROVEMENTS TO**  
2 **ANTIDUMPING AND COUN-**  
3 **TERVAILING DUTY LAWS**

4 **SEC. 501. SHORT TITLE.**

5 This title may be cited as the “American Trade En-  
6 forcement Effectiveness Act”.

7 **SEC. 502. CONSEQUENCES OF FAILURE TO COOPERATE**  
8 **WITH A REQUEST FOR INFORMATION IN A**  
9 **PROCEEDING.**

10 Section 776 of the Tariff Act of 1930 (19 U.S.C.  
11 1677e) is amended—

12 (1) in subsection (b)—

13 (A) by redesignating paragraphs (1)  
14 through (4) as subparagraphs (A) through (D),  
15 respectively, and by moving such subpara-  
16 graphs, as so redesignated, 2 ems to the right;

17 (B) by striking “ADVERSE INFERENCES.—  
18 If” and inserting the following: “ADVERSE IN-  
19 FERENCES.—

20 “(1) IN GENERAL.—If”;

21 (C) by striking “under this title, may use”  
22 and inserting the following: “under this title—  
23 “(A) may use”; and

24 (D) by striking “facts otherwise available.  
25 Such adverse inference may include” and in-

1           serting the following: “facts otherwise available;  
2           and

3                   “(B) is not required to determine, or make  
4           any adjustments to, a countervailable subsidy  
5           rate or weighted average dumping margin based  
6           on any assumptions about information the in-  
7           terested party would have provided if the inter-  
8           ested party had complied with the request for  
9           information.

10           “(2) POTENTIAL SOURCES OF INFORMATION  
11           FOR ADVERSE INFERENCES.—An adverse inference  
12           under paragraph (1)(A) may include”;

13           (2) in subsection (c)—

14                   (A) by striking “CORROBORATION OF SEC-  
15           ONDARY INFORMATION.—When the” and in-  
16           serting the following: “CORROBORATION OF  
17           SECONDARY INFORMATION.—

18           “(1) IN GENERAL.—Except as provided in para-  
19           graph (2), when the”;

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

21                   “(2) EXCEPTION.—The administrative author-  
22           ity and the Commission shall not be required to cor-  
23           roborate any dumping margin or countervailing duty  
24           applied in a separate segment of the same pro-  
25           ceeding.”; and

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

2 “(d) SUBSIDY RATES AND DUMPING MARGINS IN  
3 ADVERSE INFERENCE DETERMINATIONS.—

4 “(1) IN GENERAL.—If the administering au-  
5 thority uses an inference that is adverse to the inter-  
6 ests of a party under subsection (b)(1)(A) in select-  
7 ing among the facts otherwise available, the admin-  
8 istering authority may—

9 “(A) in the case of a countervailing duty  
10 proceeding—

11 “(i) use a countervailable subsidy rate  
12 applied for the same or similar program in  
13 a countervailing duty proceeding involving  
14 the same country, or

15 “(ii) if there is no same or similar  
16 program, use a countervailable subsidy  
17 rate for a subsidy program from a pro-  
18 ceeding that the administering authority  
19 considers reasonable to use, and

20 “(B) in the case of an antidumping duty  
21 proceeding, use any dumping margin from any  
22 segment of the proceeding under the applicable  
23 antidumping order.

24 “(2) DISCRETION TO APPLY HIGHEST RATE.—

25 In carrying out paragraph (1), the administering au-

1       thority may apply any of the countervailable subsidy  
2       rates or dumping margins specified under that para-  
3       graph, including the highest such rate or margin,  
4       based on the evaluation by the administering author-  
5       ity of the situation that resulted in the admin-  
6       istering authority using an adverse inference in se-  
7       lecting among the facts otherwise available.

8               “(3) NO OBLIGATION TO MAKE CERTAIN ESTI-  
9       MATES OR ADDRESS CERTAIN CLAIMS.—If the ad-  
10       ministering authority uses an adverse inference  
11       under subsection (b)(1)(A) in selecting among the  
12       facts otherwise available, the administering authority  
13       is not required, for purposes of subsection (c) or for  
14       any other purpose—

15               “(A) to estimate what the countervailable  
16       subsidy rate or dumping margin would have  
17       been if the interested party found to have failed  
18       to cooperate under subsection (b)(1) had co-  
19       operated, or

20               “(B) to demonstrate that the  
21       countervailable subsidy rate or dumping margin  
22       used by the administering authority reflects an  
23       alleged commercial reality of the interested  
24       party.”.

1 **SEC. 503. DEFINITION OF MATERIAL INJURY.**

2 (a) EFFECT OF PROFITABILITY OF DOMESTIC IN-  
3 DUSTRIES.—Section 771(7) of the Tariff Act of 1930 (19  
4 U.S.C. 1677(7)) is amended by adding at the end the fol-  
5 lowing:

6 “(J) EFFECT OF PROFITABILITY.—The  
7 Commission may not determine that there is no  
8 material injury or threat of material injury to  
9 an industry in the United States merely be-  
10 cause that industry is profitable or because the  
11 performance of that industry has recently im-  
12 proved.”.

13 (b) EVALUATION OF IMPACT ON DOMESTIC INDUS-  
14 TRY IN DETERMINATION OF MATERIAL INJURY.—Sub-  
15 clause (I) of section 771(7)(C)(iii) of the Tariff Act of  
16 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended to read as  
17 follows:

18 “(I) actual and potential decline  
19 in output, sales, market share, gross  
20 profits, operating profits, net profits,  
21 ability to service debt, productivity,  
22 return on investments, return on as-  
23 sets, and utilization of capacity,”.

24 (c) CAPTIVE PRODUCTION.—Section 771(7)(C)(iv) of  
25 the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is  
26 amended—

1           (1) in subclause (I), by striking the comma and  
2           inserting “, and”;

3           (2) in subclause (II), by striking “, and” and  
4           inserting a comma; and

5           (3) by striking subclause (III).

6 **SEC. 504. PARTICULAR MARKET SITUATION.**

7           (a) DEFINITION OF ORDINARY COURSE OF TRADE.—  
8           Section 771(15) of the Tariff Act of 1930 (19 U.S.C.  
9           1677(15)) is amended by adding at the end the following:

10                   “(C) Situations in which the administering  
11                   authority determines that the particular market  
12                   situation prevents a proper comparison with the  
13                   export price or constructed export price.”.

14           (b) DEFINITION OF NORMAL VALUE.—Section  
15           773(a)(1)(B)(ii)(III) of the Tariff Act of 1930 (19 U.S.C.  
16           1677b(a)(1)(B)(ii)(III)) is amended by striking “in such  
17           other country.”.

18           (c) DEFINITION OF CONSTRUCTED VALUE.—Section  
19           773(e) of the Tariff Act of 1930 (19 U.S.C. 1677b(e))  
20           is amended—

21                   (1) in paragraph (1), by striking “business”  
22                   and inserting “trade”; and

23                   (2) by striking the flush text at the end and in-  
24                   serting the following:

1 “For purposes of paragraph (1), if a particular market  
2 situation exists such that the cost of materials and fab-  
3 rication or other processing of any kind does not accu-  
4 rately reflect the cost of production in the ordinary course  
5 of trade, the administering authority may use another cal-  
6 culation methodology under this subtitle or any other cal-  
7 culation methodology. For purposes of paragraph (1), the  
8 cost of materials shall be determined without regard to  
9 any internal tax in the exporting country imposed on such  
10 materials or their disposition that is remitted or refunded  
11 upon exportation of the subject merchandise produced  
12 from such materials.”.

13 **SEC. 505. DISTORTION OF PRICES OR COSTS.**

14 (a) INVESTIGATION OF BELOW-COST SALES.—Sec-  
15 tion 773(b)(2) of the Tariff Act of 1930 (19 U.S.C.  
16 1677b(b)(2)) is amended by striking subparagraph (A)  
17 and inserting the following:

18 “(A) REASONABLE GROUNDS TO BELIEVE  
19 OR SUSPECT.—

20 “(i) REVIEW.—In a review conducted  
21 under section 751 involving a specific ex-  
22 porter, there are reasonable grounds to be-  
23 lieve or suspect that sales of the foreign  
24 like product have been made at prices that  
25 are less than the cost of production of the

1 product if the administering authority dis-  
2 regarded some or all of the exporter's sales  
3 pursuant to paragraph (1) in the investiga-  
4 tion or, if a review has been completed, in  
5 the most recently completed review.

6 “(ii) REQUESTS FOR INFORMATION.—  
7 In an investigation initiated under section  
8 732 or a review conducted under section  
9 751, the administering authority shall re-  
10 quest information necessary to calculate  
11 the constructed value and cost of produc-  
12 tion under subsections (e) and (f) to deter-  
13 mine whether there are reasonable grounds  
14 to believe or suspect that sales of the for-  
15 eign like product have been made at prices  
16 that represent less than the cost of produc-  
17 tion of the product.”.

18 (b) PRICES AND COSTS IN NONMARKET ECONO-  
19 MIES.—Section 773(c) of the Tariff Act of 1930 (19  
20 U.S.C. 1677b(e)) is amended by adding at the end the  
21 following:

22 “(5) DISCRETION TO DISREGARD CERTAIN  
23 PRICE OR COST VALUES.—In valuing the factors of  
24 production under paragraph (1) for the subject mer-  
25 chandise, the administering authority may disregard



1 price or cost values without further investigation if  
2 the administering authority has determined that  
3 broadly available export subsidies existed or par-  
4 ticular instances of subsidization occurred with re-  
5 spect to those price or cost values or if those price  
6 or cost values were subject to an antidumping  
7 order.”.

8 **SEC. 506. REDUCTION IN BURDEN ON DEPARTMENT OF**  
9 **COMMERCE BY REDUCING THE NUMBER OF**  
10 **VOLUNTARY RESPONDENTS.**

11 Section 782(a) of the Tariff Act of 1930 (19 U.S.C.  
12 1677m(a)) is amended—

13 (1) in paragraph (1), by redesignating subpara-  
14 graphs (A) and (B) as clauses (i) and (ii), respec-  
15 tively, and by moving such clauses, as so redesign-  
16 ated, 2 ems to the right;

17 (2) by redesignating paragraphs (1) and (2) as  
18 subparagraphs (A) and (B), respectively, and by  
19 moving such subparagraphs, as so redesignated, 2  
20 ems to the right;

21 (3) by striking “INVESTIGATIONS AND RE-  
22 VIEWS.—In” and inserting the following: “INVES-  
23 TIGATIONS AND REVIEWS.—

24 “(1) IN GENERAL.—In”;

1 (4) in paragraph (1), as designated by para-  
2 graph (3), by amending subparagraph (B), as reded-  
3 igned by paragraph (2), to read as follows:

4 “(B) the number of exporters or producers  
5 subject to the investigation or review is not so  
6 large that any additional individual examination  
7 of such exporters or producers would be unduly  
8 burdensome to the administering authority and  
9 inhibit the timely completion of the investiga-  
10 tion or review.”; and

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

12 “(2) DETERMINATION OF UNDULY BURDEN-  
13 SOME.—In determining if an individual examination  
14 under paragraph (1)(B) would be unduly burden-  
15 some, the administering authority may consider the  
16 following:

17 “(A) The complexity of the issues or infor-  
18 mation presented in the proceeding, including  
19 questionnaires and any responses thereto.

20 “(B) Any prior experience of the admin-  
21 istering authority in the same or similar pro-  
22 ceeding.

23 “(C) The total number of investigations  
24 under subtitle A or B and reviews under section

1           751 being conducted by the administering au-  
2           thority as of the date of the determination.

3           “(D) Such other factors relating to the  
4           timely completion of each such investigation  
5           and review as the administering authority con-  
6           siders appropriate.”.

7   **SEC. 507. APPLICATION TO CANADA AND MEXICO.**

8           Pursuant to article 1902 of the North American Free  
9   Trade Agreement and section 408 of the North American  
10   Free Trade Agreement Implementation Act (19 U.S.C.  
11   3438), the amendments made by this title shall apply with  
12   respect to goods from Canada and Mexico.

13                   **TITLE VI—ADDITIONAL**  
14                   **ENFORCEMENT PROVISIONS**

15   **SEC. 601. 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 submit to the Committee  
11          on Finance of the Senate and the Committee on  
12          Ways and Means of the House of Representa-  
13          tives a report on acts, policies, or practices of  
14          foreign governments identified as trade enforce-  
15          ment priorities based on the consultations  
16          under paragraph (1) and the criteria set forth  
17          in 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. 602. 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 section 306(c)(2) to re-  
25 instate action,” after “under section 301,”.

1 **SEC. 603. 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 the Trade Facili-  
9 tation and Trade Enforcement Act of 2015, the  
10 United States International Trade Commission shall  
11 make available on a website of the Commission an  
12 import monitoring tool to allow the public access to  
13 data on the volume and value of goods imported to  
14 the United States for the purpose of assessing  
15 whether such data has changed with respect to such  
16 goods over a period of time.

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

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

1 previous quarters as the Commission considers prac-  
2 ticable.

3 “(b) MONITORING REPORTS.—

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

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



1       “(c) SUNSET.—The requirements under this section  
2 terminate on the date that is seven years after the date  
3 of the enactment of this section.”.

4       (b) CLERICAL AMENDMENT.—The table of contents  
5 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is  
6 amended by inserting after the item relating to section  
7 204 the following:

“Sec. 205. Trade monitoring.”.

8                   **TITLE VII—CURRENCY**  
9                   **MANIPULATION**

10 **SEC. 701. ENHANCEMENT OF ENGAGEMENT ON CURRENCY**  
11                   **EXCHANGE RATE AND ECONOMIC POLICIES**  
12                   **WITH CERTAIN MAJOR TRADING PARTNERS**  
13                   **OF THE UNITED STATES.**

14       (a) MAJOR TRADING PARTNER REPORT.—

15           (1) IN GENERAL.—Not later than 180 days  
16 after the date of the enactment of this Act, and not  
17 less frequently than once every 180 days thereafter,  
18 the Secretary shall submit to the appropriate com-  
19 mittees of Congress a report on the macroeconomic  
20 and currency exchange rate policies of each country  
21 that is a major trading partner of the United States.

22           (2) ELEMENTS.—

23           (A) IN GENERAL.—Each report submitted  
24 under paragraph (1) shall contain—

1 (i) for each country that is a major  
2 trading partner of the United States—

3 (I) that country's bilateral trade  
4 balance with the United States;

5 (II) that country's current ac-  
6 count balance as a percentage of its  
7 gross domestic product;

8 (III) the change in that country's  
9 current account balance as a percent-  
10 age of its gross domestic product dur-  
11 ing the 3-year period preceding the  
12 submission of the report;

13 (IV) that country's foreign ex-  
14 change reserves as a percentage of its  
15 short-term debt; and

16 (V) that country's foreign ex-  
17 change reserves as a percentage of its  
18 gross domestic product; and

19 (ii) an enhanced analysis of macro-  
20 economic and exchange rate policies for  
21 each country—

22 (I) that is a major trading part-  
23 ner of the United States;

- 1 (II) the currency of which is per-  
2 sistently and substantially under-  
3 valued;
- 4 (III) that has—
- 5 (aa) a significant bilateral  
6 trade surplus with the United  
7 States; and
- 8 (bb) a material global cur-  
9 rent account surplus; and
- 10 (IV) that has engaged in per-  
11 sistent one-sided intervention in the  
12 foreign exchange market.
- 13 (B) ENHANCED ANALYSIS.—Each en-  
14 hanced analysis under subparagraph (A)(ii)  
15 shall include, for each country with respect to  
16 which an analysis is made under that subpara-  
17 graph—
- 18 (i) a description of developments in  
19 the currency markets of that country, in-  
20 cluding, to the greatest extent feasible, de-  
21 velopments with respect to currency inter-  
22 ventions;
- 23 (ii) a description of trends in the real  
24 effective exchange rate of the currency of

1 that country and in the degree of under-  
2 valuation of that currency;

3 (iii) an analysis of changes in the cap-  
4 ital controls and trade restrictions of that  
5 country; and

6 (iv) patterns in the reserve accumula-  
7 tion of that country.

8 (b) ENGAGEMENT ON EXCHANGE RATE AND ECO-  
9 NOMIC POLICIES.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), the President, through the Secretary,  
12 shall commence enhanced bilateral engagement with  
13 each country for which an enhanced analysis of mac-  
14 roeconomic and currency exchange rate policies is in-  
15 cluded in the report submitted under subsection (a),  
16 in order to—

17 (A) urge implementation of policies to ad-  
18 dress the causes of the undervaluation of its  
19 currency, its bilateral trade surplus with the  
20 United States, and its material global current  
21 account surplus, including undervaluation and  
22 surpluses relating to exchange rate manage-  
23 ment;

24 (B) express the concern of the United  
25 States with respect to the adverse trade and

1 economic effects of that undervaluation and  
2 those surpluses;

3 (C) develop measurable objectives for ad-  
4 dressing that undervaluation and those sur-  
5 pluses; and

6 (D) advise that country of the ability of  
7 the President to take action under subsection  
8 (c).

9 (2) EXCEPTION.—The Secretary may determine  
10 not to enhance bilateral engagement with a country  
11 under paragraph (1) for which an enhanced analysis  
12 of macroeconomic and exchange rate policies is in-  
13 cluded in the report submitted under subsection (a)  
14 if the Secretary submits to the appropriate commit-  
15 tees of Congress a report that describes how the cur-  
16 rency and other macroeconomic policies of that  
17 country are addressing the undervaluation and sur-  
18 pluses specified in paragraph (1)(A) with respect to  
19 that country, including undervaluation and surpluses  
20 relating to exchange rate management.

21 (c) REMEDIAL ACTION.—

22 (1) IN GENERAL.—If, on the date that is one  
23 year after the commencement of enhanced bilateral  
24 engagement by the President with respect to a coun-  
25 try under subsection (b)(1), the country has failed to

1 adopt appropriate policies to correct the undervalu-  
2 ation and surpluses described in subsection  
3 (b)(1)(A) with respect to that country, the President  
4 may take one or more of the following actions:

5 (A) Prohibit the Overseas Private Invest-  
6 ment Corporation from approving, on and after  
7 such date, any new financing (including any in-  
8 surance, reinsurance, or guarantee) with respect  
9 to a project located in that country.

10 (B) Except as provided in paragraph (2),  
11 and pursuant to paragraph (3), prohibit the  
12 Federal Government from procuring, or enter-  
13 ing into any contract for the procurement of,  
14 goods or services from that country on and  
15 after such date.

16 (C) Instruct the United States Executive  
17 Director of the International Monetary Fund to  
18 use the voice and vote of the United States to  
19 call for additional rigorous surveillance of the  
20 macroeconomic and exchange rate policies of  
21 that country and, as appropriate, formal con-  
22 sultations on findings of currency manipulation.

23 (D) Instruct the United States Trade Rep-  
24 resentative to take into account, in consultation  
25 with the Secretary, in assessing whether to

1 enter into a bilateral or regional trade agree-  
2 ment with that country or to initiate or partici-  
3 pate in negotiations with respect to a bilateral  
4 or regional trade agreement with that country,  
5 the extent to which that country has failed to  
6 adopt appropriate policies to correct the under-  
7 valuation and surpluses described in subsection  
8 (b)(1)(A).

9 (2) EXCEPTION.—The President may not apply  
10 a prohibition under paragraph (1)(B) with respect to  
11 a country that is a party to the Agreement on Gov-  
12 ernment Procurement or a free trade agreement to  
13 which the United States is a party.

14 (3) CONSULTATIONS.—

15 (A) OFFICE OF MANAGEMENT AND BUDG-  
16 ET.—Before applying a prohibition under para-  
17 graph (1)(B), the President shall consult with  
18 the Director of the Office of Management and  
19 Budget to determine whether such prohibition  
20 would subject the taxpayers of the United  
21 States to unreasonable cost.

22 (B) CONGRESS.—The President shall con-  
23 sult with the appropriate committees of Con-  
24 gress with respect to any action the President  
25 takes under paragraph (1)(B), including wheth-

1           er the President has consulted as required  
2           under subparagraph (A).

3           (d) DEFINITIONS.—In this section:

4           (1) AGREEMENT ON GOVERNMENT PROCURE-  
5           MENT.—The term “Agreement on Government Pro-  
6           curement” means the agreement referred to in sec-  
7           tion 101(d)(17) of the Uruguay Round Agreements  
8           Act (19 U.S.C. 3511(d)(17)).

9           (2) APPROPRIATE COMMITTEES OF CON-  
10          GRESS.—The term “appropriate committees of Con-  
11          gress” means—

12                 (A) the Committee on Banking, Housing,  
13                 and Urban Affairs and the Committee on Fi-  
14                 nance of the Senate; and

15                 (B) the Committee on Financial Services  
16                 and the Committee on Ways and Means of the  
17                 House of Representatives.

18           (3) COUNTRY.—The term “country” means a  
19           foreign country, dependent territory, or possession of  
20           a foreign country, and may include an association of  
21           2 or more foreign countries, dependent territories, or  
22           possessions of countries into a customs union out-  
23           side the United States.

24           (4) REAL EFFECTIVE EXCHANGE RATE.—The  
25           term “real effective exchange rate” means a weight-



1 ed average of bilateral exchange rates, expressed in  
2 price-adjusted terms.

3 (5) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Treasury.

5 **SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EX-**  
6 **CHANGE RATE POLICY.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established an Ad-  
9 visory Committee on International Exchange Rate  
10 Policy (in this section referred to as the “Com-  
11 mittee”).

12 (2) DUTIES.—The Committee shall be respon-  
13 sible for advising the Secretary of the Treasury with  
14 respect to the impact of international exchange rates  
15 and financial policies on the economy of the United  
16 States.

17 (b) MEMBERSHIP.—

18 (1) IN GENERAL.—The Committee shall be  
19 composed of 9 members as follows, none of whom  
20 may be employees of the Federal Government:

21 (A) Three members shall be appointed by  
22 the President pro tempore of the Senate, upon  
23 the recommendation of the chairmen and rank-  
24 ing members of the Committee on Banking,

1           Housing, and Urban Affairs and the Committee  
2           on Finance of the Senate.

3           (B) Three members shall be appointed by  
4           the Speaker of the House of Representatives  
5           upon the recommendation of the chairmen and  
6           ranking members of the Committee on Finan-  
7           cial Services and the Committee on Ways and  
8           Means of the House of Representatives.

9           (C) Three members shall be appointed by  
10          the President.

11          (2) QUALIFICATIONS.—Members shall be se-  
12          lected under paragraph (1) on the basis of their ob-  
13          jectivity and demonstrated expertise in finance, eco-  
14          nomics, or currency exchange.

15          (3) TERMS.—

16                (A) IN GENERAL.—Members shall be ap-  
17                pointed for a term of 2 years or until the Com-  
18                mittee terminates.

19                (B) REAPPOINTMENT.—A member may be  
20                reappointed to the Committee for additional  
21                terms.

22          (4) VACANCIES.—Any vacancy in the Com-  
23          mittee shall not affect its powers, but shall be filled  
24          in the same manner as the original appointment.

25          (c) DURATION OF COMMITTEE.—

1           (1) IN GENERAL.—The Committee shall termi-  
2           nate on the date that is 2 years after the date of the  
3           enactment of this Act unless renewed by the Presi-  
4           dent for a subsequent 2-year period.

5           (2) CONTINUED RENEWAL.—The President  
6           may continue to renew the Committee for successive  
7           2-year periods by taking appropriate action to renew  
8           the Committee prior to the date on which the Com-  
9           mittee would otherwise terminate.

10          (d) MEETINGS.—The Committee shall hold not less  
11         than 2 meetings each calendar year.

12          (e) CHAIRPERSON.—

13                 (1) IN GENERAL.—The Committee shall elect  
14                 from among its members a chairperson for a term  
15                 of 2 years or until the Committee terminates.

16                 (2) REELECTION; SUBSEQUENT TERMS.—A  
17                 chairperson of the Committee may be reelected  
18                 chairperson but is ineligible to serve consecutive  
19                 terms as chairperson.

20          (f) STAFF.—The Secretary of the Treasury shall  
21         make available to the Committee such staff, information,  
22         personnel, administrative services, and assistance as the  
23         Committee may reasonably require to carry out the activi-  
24         ties of the Committee.

1 (g) APPLICATION OF THE FEDERAL ADVISORY COM-  
2 MITTEE ACT.—

3 (1) IN GENERAL.—Except as provided in para-  
4 graph (2), the provisions of the Federal Advisory  
5 Committee Act (5 U.S.C. App.) shall apply to the  
6 Committee.

7 (2) EXCEPTION.—Meetings of the Committee  
8 shall be exempt from the requirements of sub-  
9 sections (a) and (b) of section 10 and section 11 of  
10 the Federal Advisory Committee Act (relating to  
11 open meetings, public notice, public participation,  
12 and public availability of documents), whenever and  
13 to the extent it is determined by the President or the  
14 Secretary of the Treasury that such meetings will be  
15 concerned with matters the disclosure of which—

16 (A) would seriously compromise the devel-  
17 opment by the Government of the United States  
18 of monetary or financial policy; or

19 (B) is likely to—

20 (i) lead to significant financial specu-  
21 lation in currencies, securities, or commod-  
22 ities; or

23 (ii) significantly endanger the stability  
24 of any financial institution.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Secretary of the  
3 Treasury for each fiscal year in which the Committee is  
4 in effect \$1,000,000 to carry out this section.

5 **TITLE VIII—ESTABLISHMENT OF**  
6 **U.S. CUSTOMS AND BORDER**  
7 **PROTECTION**

8 **SEC. 801. SHORT TITLE.**

9 This title may be cited as the “U.S. Customs and  
10 Border Protection Authorization Act”.

11 **SEC. 802. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**  
12 **PROTECTION.**

13 (a) IN GENERAL.—Section 411 of the Homeland Se-  
14 curity Act of 2002 (6 U.S.C. 211) is amended to read  
15 as follows:

16 **“SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**  
17 **PROTECTION; COMMISSIONER, DEPUTY COM-**  
18 **MISSIONER, AND OPERATIONAL OFFICES.**

19 “(a) IN GENERAL.—There is established in the De-  
20 partment an agency to be known as U.S. Customs and  
21 Border Protection.

22 “(b) COMMISSIONER OF U.S. CUSTOMS AND BORDER  
23 PROTECTION.—There shall be at the head of U.S. Cus-  
24 toms and Border Protection a Commissioner of U.S. Cus-  
25 toms and Border Protection (in this section referred to

1 as the ‘Commissioner’), who shall be appointed by the  
2 President, by and with the advice and consent of the Sen-  
3 ate.

4 “(c) DUTIES.—The Commissioner shall—

5 “(1) ensure the interdiction of persons and  
6 goods illegally entering or exiting the United States;

7 “(2) facilitate and expedite the flow of legiti-  
8 mate travelers and trade;

9 “(3) detect, respond to, and interdict terrorists,  
10 drug smugglers and traffickers, human smugglers  
11 and traffickers, and other persons who may under-  
12 mine the security of the United States, in cases in  
13 which such persons are entering, or have recently  
14 entered, the United States;

15 “(4) safeguard the borders of the United States  
16 to protect against the entry of dangerous goods;

17 “(5) oversee the functions of the Office of  
18 Trade established under section 802(h) of the Trade  
19 Facilitation and Trade Enforcement Act of 2015;

20 “(6) enforce and administer all customs laws of  
21 the United States, including the Tariff Act of 1930;

22 “(7) enforce and administer all immigration  
23 laws, as such term is defined in paragraph (17) of  
24 section 101(a) of the Immigration and Nationality  
25 Act (8 U.S.C. 1101(a)), as necessary for the inspec-

1       tion, processing, and admission of persons who seek  
2       to enter or depart the United States, and as nec-  
3       essary to ensure the detection, interdiction, removal,  
4       departure from the United States, short-term deten-  
5       tion, and transfer of persons unlawfully entering, or  
6       who have recently unlawfully entered, the United  
7       States, in coordination with U.S. Immigration and  
8       Customs Enforcement and United States Citizenship  
9       and Immigration Services;

10           “(8) develop and implement screening and tar-  
11           geting capabilities, including the screening, review-  
12           ing, identifying, and prioritizing of passengers and  
13           cargo across all international modes of transpor-  
14           tation, both inbound and outbound;

15           “(9) in coordination with the Secretary, deploy  
16           technology to collect the data necessary for the Sec-  
17           retary to administer the biometric entry and exit  
18           data system pursuant to section 7208 of the Intel-  
19           ligence Reform and Terrorism Prevention Act of  
20           2004 (8 U.S.C. 1365b);

21           “(10) enforce and administer the laws relating  
22           to agricultural import and entry inspection referred  
23           to in section 421;

24           “(11) in coordination with the Under Secretary  
25           for Management of the Department, ensure U.S.

1 Customs and Border Protection complies with Fed-  
2 eral law, the Federal Acquisition Regulation, and the  
3 Department's acquisition management directives for  
4 major acquisition programs of U.S. Customs and  
5 Border Protection;

6 “(12) enforce and administer—

7 “(A) the Container Security Initiative pro-  
8 gram under section 205 of the Security and Ac-  
9 countability for Every Port Act of 2006 (6  
10 U.S.C. 945; Public Law 109–347); and

11 “(B) the Customs-Trade Partnership  
12 Against Terrorism program under sections 211  
13 through 223 of such Act (6 U.S.C. 961-973);

14 “(13) conduct polygraph examinations in ac-  
15 cordance with section 3(1) of the Anti-Border Cor-  
16 ruption Act of 2010 (Public Law 111–376);

17 “(14) establish the standard operating proce-  
18 dures described in subsection (k);

19 “(15) carry out the training required under  
20 subsection (l); and

21 “(16) carry out other duties and powers pre-  
22 scribed by law or delegated by the Secretary.

23 “(d) DEPUTY COMMISSIONER.—There shall be in  
24 U.S. Customs and Border Protection a Deputy Commis-



1 sioner who shall assist the Commissioner in the manage-  
2 ment of U.S. Customs and Border Protection.

3 “(e) U.S. BORDER PATROL.—

4 “(1) IN GENERAL.—There is established in  
5 U.S. Customs and Border Protection the U.S. Bor-  
6 der Patrol.

7 “(2) CHIEF.—There shall be at the head of the  
8 U.S. Border Patrol a Chief, who shall report to the  
9 Commissioner.

10 “(3) DUTIES.—The U.S. Border Patrol shall—

11 “(A) serve as the law enforcement office of  
12 U.S. Customs and Border Protection with pri-  
13 mary responsibility for interdicting persons at-  
14 tempting to illegally enter or exit the United  
15 States or goods being illegally imported into or  
16 exported from the United States at a place  
17 other than a designated port of entry;

18 “(B) deter and prevent illegal entry of ter-  
19 rorists, terrorist weapons, persons, and contra-  
20 band; and

21 “(C) carry out other duties and powers  
22 prescribed by the Commissioner.

23 “(f) OFFICE OF AIR AND MARINE OPERATIONS.—

1           “(1) IN GENERAL.—There is established in  
2 U.S. Customs and Border Protection an Office of  
3 Air and Marine Operations.

4           “(2) ASSISTANT COMMISSIONER.—There shall  
5 be at the head of the Office of Air and Marine Oper-  
6 ations an Assistant Commissioner, who shall report  
7 to the Commissioner.

8           “(3) DUTIES.—The Office of Air and Marine  
9 Operations shall—

10           “(A) serve as the law enforcement office  
11 within U.S. Customs and Border Protection  
12 with primary responsibility to detect, interdict,  
13 and prevent acts of terrorism and the unlawful  
14 movement of people, illicit drugs, and other  
15 contraband across the borders of the United  
16 States in the air and maritime environment;

17           “(B) conduct joint aviation and marine op-  
18 erations with U.S. Immigration and Customs  
19 Enforcement;

20           “(C) conduct aviation and marine oper-  
21 ations with international, Federal, State, and  
22 local law enforcement agencies, as appropriate;

23           “(D) administer the Air and Marine Oper-  
24 ations Center established under paragraph (4);  
25 and

1           “(E) carry out other duties and powers  
2 prescribed by the Commissioner.

3           “(4) AIR AND MARINE OPERATIONS CENTER.—

4           “(A) IN GENERAL.—There is established in  
5 the Office of Air and Marine Operations an Air  
6 and Marine Operations Center.

7           “(B) EXECUTIVE DIRECTOR.—There shall  
8 be at the head of the Air and Marine Oper-  
9 ations Center an Executive Director, who shall  
10 report to the Assistant Commissioner of the Of-  
11 fice of Air and Marine Operations.

12           “(C) DUTIES.—The Air and Marine Oper-  
13 ations Center shall—

14           “(i) manage the air and maritime do-  
15 main awareness of the Department;

16           “(ii) monitor and coordinate the air-  
17 space for Unmanned Aerial Systems oper-  
18 ations of the Office of Air and Marine Op-  
19 erations in U.S. Customs and Border Pro-  
20 tection;

21           “(iii) detect, identify, and coordinate a  
22 response to threats to national security in  
23 the air domain;

1                   “(iv) provide aviation and marine sup-  
2                   port to other Federal, State, tribal, and  
3                   local agencies; and

4                   “(v) carry out other duties and pow-  
5                   ers prescribed by the Assistant Commis-  
6                   sioner.

7                   “(g) OFFICE OF FIELD OPERATIONS.—

8                   “(1) IN GENERAL.—There is established in  
9                   U.S. Customs and Border Protection an Office of  
10                  Field Operations.

11                  “(2) ASSISTANT COMMISSIONER.—There shall  
12                  be at the head of the Office of Field Operations an  
13                  Assistant Commissioner, who shall report to the  
14                  Commissioner.

15                  “(3) DUTIES.—The Office of Field Operations  
16                  shall coordinate the enforcement activities of U.S.  
17                  Customs and Border Protection at United States  
18                  air, land, and sea ports of entry to—

19                         “(A) deter and prevent terrorists and ter-  
20                         rorist weapons from entering the United States  
21                         at such ports of entry;

22                         “(B) conduct inspections at such ports of  
23                         entry to safeguard the United States from ter-  
24                         rorism and illegal entry of persons;

1           “(C) prevent illicit drugs, agricultural  
2           pests, and contraband from entering the United  
3           States;

4           “(D) in coordination with the Commis-  
5           sioner, facilitate and expedite the flow of legiti-  
6           mate travelers and trade;

7           “(E) administer the National Targeting  
8           Center established under paragraph (4); and

9           “(F) carry out other duties and powers  
10          prescribed by the Commissioner.

11         “(4) NATIONAL TARGETING CENTER.—

12           “(A) IN GENERAL.—There is established in  
13           the Office of Field Operations a National Tar-  
14           geting Center.

15           “(B) EXECUTIVE DIRECTOR.—There shall  
16           be at the head of the National Targeting Center  
17           an Executive Director, who shall report to the  
18           Assistant Commissioner of the Office of Field  
19           Operations.

20           “(C) DUTIES.—The National Targeting  
21           Center shall—

22           “(i) serve as the primary forum for  
23           targeting operations within U.S. Customs  
24           and Border Protection to collect and ana-

1 lyze traveler and cargo information in ad-  
2 vance of arrival in the United States;

3 “(ii) identify, review, and target trav-  
4 elers and cargo for examination;

5 “(iii) coordinate the examination of  
6 entry and exit of travelers and cargo;

7 “(iv) develop and conduct commercial  
8 risk assessment targeting with respect to  
9 cargo destined for the United States;

10 “(v) issue Trade Alerts pursuant to  
11 section 111 of the Trade Facilitation and  
12 Trade Enforcement Act of 2015; and

13 “(vi) carry out other duties and pow-  
14 ers prescribed by the Assistant Commis-  
15 sioner.

16 “(5) ANNUAL REPORT ON STAFFING.—Not  
17 later than 30 days after the date of the enactment  
18 of the Trade Facilitation and Trade Enforcement  
19 Act of 2015 and annually thereafter, the Assistant  
20 Commissioner shall submit to the appropriate con-  
21 gressional committees a report on the staffing model  
22 for the Office of Field Operations, including infor-  
23 mation on how many supervisors, front-line U.S.  
24 Customs and Border Protection officers, and sup-

1 port personnel are assigned to each Field Office and  
2 port of entry.

3 “(h) OFFICE OF INTELLIGENCE.—

4 “(1) IN GENERAL.—There is established in  
5 U.S. Customs and Border Protection an Office of  
6 Intelligence.

7 “(2) ASSISTANT COMMISSIONER.—There shall  
8 be at the head of the Office of Intelligence an Assist-  
9 ant Commissioner, who shall report to the Commis-  
10 sioner.

11 “(3) DUTIES.—The Office of Intelligence  
12 shall—

13 “(A) develop, provide, coordinate, and im-  
14 plement intelligence capabilities into a cohesive  
15 intelligence enterprise to support the execution  
16 of the duties and responsibilities of U.S. Cus-  
17 toms and Border Protection;

18 “(B) collect and analyze advance traveler  
19 and cargo information;

20 “(C) establish, in coordination with the  
21 Chief Intelligence Officer of the Department, as  
22 appropriate, intelligence-sharing relationships  
23 with Federal, State, local, and tribal agencies  
24 and intelligence agencies;

1           “(D) conduct risk-based covert testing of  
2           U.S. Customs and Border Protection oper-  
3           ations, including for nuclear and radiological  
4           risks; and

5           “(E) carry out other duties and powers  
6           prescribed by the Commissioner.

7           “(i) OFFICE OF INTERNATIONAL AFFAIRS.—

8           “(1) IN GENERAL.—There is established in  
9           U.S. Customs and Border Protection an Office of  
10          International Affairs.

11          “(2) ASSISTANT COMMISSIONER.—There shall  
12          be at the head of the Office of International Affairs  
13          an Assistant Commissioner, who shall report to the  
14          Commissioner.

15          “(3) DUTIES.—The Office of International Af-  
16          fairs, in collaboration with the Office of Policy of the  
17          Department, shall—

18                 “(A) coordinate and support U.S. Customs  
19                 and Border Protection’s foreign initiatives, poli-  
20                 cies, programs, and activities;

21                 “(B) coordinate and support U.S. Customs  
22                 and Border Protection’s personnel stationed  
23                 abroad;

24                 “(C) maintain partnerships and informa-  
25                 tion sharing agreements and arrangements with



1 foreign governments, international organiza-  
2 tions, and United States agencies in support of  
3 U.S. Customs and Border Protection duties and  
4 responsibilities;

5 “(D) provide necessary capacity building,  
6 training, and assistance to foreign border con-  
7 trol agencies to strengthen global supply chain  
8 and travel security, as appropriate;

9 “(E) coordinate mission support services to  
10 sustain U.S. Customs and Border Protection’s  
11 global activities;

12 “(F) coordinate U.S. Customs and Border  
13 Protection’s engagement in international nego-  
14 tiations; and

15 “(G) carry out other duties and powers  
16 prescribed by the Commissioner.

17 “(j) OFFICE OF INTERNAL AFFAIRS.—

18 “(1) IN GENERAL.—There is established in  
19 U.S. Customs and Border Protection an Office of  
20 Internal Affairs.

21 “(2) ASSISTANT COMMISSIONER.—There shall  
22 be at the head of the Office of Internal Affairs an  
23 Assistant Commissioner, who shall report to the  
24 Commissioner.

1           “(3) DUTIES.—The Office of Internal Affairs  
2 shall—

3           “(A) investigate criminal and administra-  
4 tive matters and misconduct by officers, agents,  
5 and other employees of U.S. Customs and Bor-  
6 der Protection;

7           “(B) perform investigations of applicants  
8 for employment with U.S. Customs and Border  
9 Protection and periodic reinvestigations (in ac-  
10 cordance with section 3001 of the Intelligence  
11 Reform and Terrorism Prevention Act of 2004  
12 (50 U.S.C. 3341; Public Law 108–458)) of offi-  
13 cers, agents, and other employees of United  
14 States Custom and Border Protection, including  
15 investigations to determine suitability for em-  
16 ployment and eligibility for access to classified  
17 information;

18           “(C) manage integrity of U.S. Customs  
19 and Border Protection’s counter-intelligence op-  
20 erations, including conduct of counter-intel-  
21 ligence investigations;

22           “(D) conduct research and analysis regard-  
23 ing misconduct of officers, agents, and other  
24 employees of U.S. Customs and Border Protec-  
25 tion; and

1           “(E) carry out other duties and powers  
2           prescribed by the Commissioner.

3           “(k) STANDARD OPERATING PROCEDURES.—

4           “(1) IN GENERAL.—The Commissioner shall es-  
5           tablish—

6           “(A) standard operating procedures for  
7           searching, reviewing, retaining, and sharing in-  
8           formation contained in communication, elec-  
9           tronic, or digital devices encountered by U.S.  
10          Customs and Border Protection personnel at  
11          United States ports of entry;

12          “(B) standard use of force procedures that  
13          officers and agents of U.S. Customs and Border  
14          Protection may employ in the execution of their  
15          duties, including the use of deadly force;

16          “(C) a uniform, standardized, and pub-  
17          lically-available procedure for processing and in-  
18          vestigating complaints against officers, agents,  
19          and employees of U.S. Customs and Border  
20          Protection for violations of professional con-  
21          duct, including the timely disposition of com-  
22          plaints and a written notification to the com-  
23          plainant of the status or outcome, as appro-  
24          priate, of the related investigation, in accord-  
25          ance with section 552a of title 5, United States

1 Code (commonly referred to as the ‘Privacy  
2 Act’ or the ‘Privacy Act of 1974’);

3 “(D) an internal, uniform reporting mech-  
4 anism regarding incidents involving the use of  
5 deadly force by an officer or agent of U.S. Cus-  
6 toms and Border Protection, including an eval-  
7 uation of the degree to which the procedures re-  
8 quired under subparagraph (B) were followed;  
9 and

10 “(E) standard operating procedures, acting  
11 through the Assistant Commissioner for Air  
12 and Marine Operations and in coordination  
13 with the Office for Civil Rights and Civil Lib-  
14 erties and the Office of Privacy of the Depart-  
15 ment, to provide command, control, communica-  
16 tion, surveillance, and reconnaissance assistance  
17 through the use of unmanned aerial systems,  
18 including the establishment of—

19 “(i) a process for other Federal,  
20 State, and local law enforcement agencies  
21 to submit mission requests;

22 “(ii) a formal procedure to determine  
23 whether to approve or deny such a mission  
24 request;

1                   “(iii) a formal procedure to determine  
2                   how such mission requests are prioritized  
3                   and coordinated; and

4                   “(iv) a process regarding the protec-  
5                   tion and privacy of data and images col-  
6                   lected by U.S. Customs and Border Pro-  
7                   tection through the use of unmanned aerial  
8                   systems.

9                   “(2) REQUIREMENTS REGARDING CERTAIN NO-  
10                  TIFICATIONS.—The standard operating procedures  
11                  established pursuant to subparagraph (A) of para-  
12                  graph (1) shall require—

13                   “(A) in the case of a search of information  
14                   conducted on an electronic device by U.S. Cus-  
15                   toms and Border Protection personnel, the  
16                   Commissioner to notify the individual subject to  
17                   such search of the purpose and authority for  
18                   such search, and how such individual may ob-  
19                   tain information on reporting concerns about  
20                   such search; and

21                   “(B) in the case of information collected  
22                   by U.S. Customs and Border Protection  
23                   through a search of an electronic device, if such  
24                   information is transmitted to another Federal  
25                   agency for subject matter assistance, trans-

1           lation, or decryption, the Commissioner to no-  
2           tify the individual subject to such search of  
3           such transmission.

4           “(3) EXCEPTIONS.—

5                   “(A) IN GENERAL.—The Commissioner  
6           may withhold the notifications required under  
7           paragraphs (1)(C) and (2) if the Commissioner  
8           determines that such notifications would impair  
9           national security, law enforcement, or other  
10          operational interests.

11                   “(B) TERRORIST WATCH LISTS.—

12                           “(i) SEARCHES.—If the individual  
13           subject to search of an electronic device  
14           pursuant to subparagraph (A) of para-  
15           graph (1) is included on a Government-op-  
16           erated or Government-maintained terrorist  
17           watch list, the notifications required under  
18           paragraph (2) shall not apply.

19                           “(ii) COMPLAINTS.—If the complain-  
20           ant using the process established under  
21           subparagraph (C) of paragraph (1) is in-  
22           cluded on a Government-operated or Gov-  
23           ernment-maintained terrorist watch list,  
24           the notification required under such sub-  
25           paragraph shall not apply.

1           “(4) UPDATE AND REVIEW.—The Commis-  
2           sioner shall review and update every three years the  
3           standard operating procedures required under this  
4           subsection.

5           “(5) AUDITS.—The Inspector General of the  
6           Department of Homeland Security shall develop and  
7           annually administer an auditing mechanism to re-  
8           view whether searches of electronic devices at or be-  
9           tween United States ports of entry are being con-  
10          ducted in conformity with the standard operating  
11          procedures required under subparagraph (A) of  
12          paragraph (1). Such audits shall be submitted to the  
13          appropriate congressional committees and shall in-  
14          clude the following:

15                 “(A) A description of the activities of offi-  
16                 cers and agents of U.S. Customs and Border  
17                 Protection with respect to such searches.

18                 “(B) The number of such searches.

19                 “(C) The number of instances in which in-  
20                 formation contained in such devices that were  
21                 subjected to such searches was retained, copied,  
22                 shared, or entered in an electronic database.

23                 “(D) The number of such devices detained  
24                 as the result of such searches.

1           “(E) The number of instances in which in-  
2           formation collected from such device was sub-  
3           jected to such searches was transmitted to an-  
4           other Federal agency, including whether such  
5           transmission resulted in a prosecution or con-  
6           viction.

7           “(6) REQUIREMENTS REGARDING OTHER NOTI-  
8           FICATIONS.—The standard operating procedures es-  
9           tablished pursuant to subparagraph (B) of para-  
10          graph (1) shall require—

11           “(A) in the case of an incident of the use  
12           of deadly force by U.S. Customs and Border  
13           Protection personnel, the Commissioner to no-  
14           tify the appropriate congressional committees;  
15           and

16           “(B) the Commissioner to provide to such  
17           committees a copy of the evaluation pursuant to  
18           subparagraph (D) of such paragraph not later  
19           than 30 days after completion of such evalua-  
20           tion.

21           “(7) REPORT ON UNMANNED AERIAL SYS-  
22           TEMS.—The Commissioner shall submit to the ap-  
23           propriate congressional committees an annual report  
24           that reviews whether the use of unmanned aerial  
25           systems are being conducted in conformity with the



1 standard operating procedures required under sub-  
2 paragraph (E) of paragraph (1). Such reports—

3 “(A) shall be submitted with the Presi-  
4 dent’s annual budget;

5 “(B) may be submitted in classified form  
6 if the Commissioner determines that such is ap-  
7 propriate, and

8 “(C) shall include—

9 “(i) a detailed description of how,  
10 where, and for how long data and images  
11 collected through the use of unmanned aer-  
12 ial systems by U.S. Customs and Border  
13 Protection is collected and stored; and

14 “(ii) a list of Federal, State, and local  
15 law enforcement agencies that submitted  
16 mission requests in the previous year and  
17 the disposition of such requests.

18 “(l) TRAINING.—The Commissioner shall require all  
19 officers and agents of U.S. Customs and Border Protec-  
20 tion to participate in a specified amount of continuing  
21 education (to be determined by the Commissioner) to  
22 maintain an understanding of Federal legal rulings, court  
23 decisions, and departmental policies, procedures, and  
24 guidelines.

25 “(m) SHORT TERM DETENTION STANDARDS.—

1           “(1) ACCESS TO FOOD AND WATER.—The Com-  
2           missioner shall make every effort to ensure that ade-  
3           quate access to food and water is provided to an in-  
4           dividual apprehended and detained at or between a  
5           United States port of entry as soon as practicable  
6           following the time of such apprehension or during  
7           subsequent short term detention.

8           “(2) ACCESS TO INFORMATION ON DETAINEE  
9           RIGHTS AT BORDER PATROL PROCESSING CEN-  
10          TERS.—

11           “(A) IN GENERAL.—The Commissioner  
12           shall ensure that an individual apprehended by  
13           a U.S. Border Patrol agent or an Office of  
14           Field Operations officer is provided with infor-  
15           mation concerning such individual’s rights, in-  
16           cluding the right to contact a representative of  
17           such individual’s government for purposes of  
18           United States treaty obligations.

19           “(B) FORM.—The information referred to  
20           in subparagraph (A) may be provided either  
21           verbally or in writing, and shall be posted in the  
22           detention holding cell in which such individual  
23           is being held. The information shall be provided  
24           in a language understandable to such indi-  
25           vidual.

1           “(3) SHORT TERM DETENTION DEFINED.—In  
2 this subsection, the term ‘short term detention’  
3 means detention in a U.S. Customs and Border Pro-  
4 tection processing center for 72 hours or less, before  
5 repatriation to a country of nationality or last habit-  
6 ual residence.

7           “(4) DAYTIME REPATRIATION.—When prac-  
8 ticable, repatriations shall be limited to daylight  
9 hours and avoid locations that are determined to  
10 have high indices of crime and violence.

11           “(5) REPORT ON PROCUREMENT PROCESS AND  
12 STANDARDS.—Not later than 180 days after the  
13 date of the enactment of this section, the Comp-  
14 troller General of the United States shall submit to  
15 the appropriate congressional committees a report  
16 on the procurement process and standards of enti-  
17 ties with which U.S. Customs and Border Protection  
18 has contracts for the transportation and detention of  
19 individuals apprehended by agents or officers of U.S.  
20 Customs and Border Protection. Such report should  
21 also consider the operational efficiency of con-  
22 tracting the transportation and detention of such in-  
23 dividuals.

24           “(6) REPORT ON INSPECTIONS OF SHORT-TERM  
25 CUSTODY FACILITIES.—The Commissioner shall—

1           “(A) annually inspect all facilities utilized  
2 for short term detention; and

3           “(B) make publically available information  
4 collected pursuant to such inspections, including  
5 information regarding the requirements under  
6 paragraphs (1) and (2) and, where appropriate,  
7 issue recommendations to improve the condi-  
8 tions of such facilities.

9           “(n) WAIT TIMES TRANSPARENCY.—

10           “(1) IN GENERAL.—The Commissioner shall—

11           “(A) publish live wait times at the 20  
12 United States airports that support the highest  
13 volume of international travel (as determined by  
14 available Federal flight data);

15           “(B) make information about such wait  
16 times available to the public in real time  
17 through the U.S. Customs and Border Protec-  
18 tion Web site;

19           “(C) submit to the appropriate congres-  
20 sional committees quarterly reports that include  
21 compilations of all such wait times and a rank-  
22 ing of such United States airports by wait  
23 times; and

24           “(D) provide adequate staffing at the U.S.  
25 Customs and Border Protection information

1 center to ensure timely access for travelers at-  
2 tempting to submit comments or speak with a  
3 representative about their entry experiences.

4 “(2) CALCULATION.—The wait times referred  
5 to in paragraph (1)(A) shall be determined by calcu-  
6 lating the time elapsed between an individual’s entry  
7 into the U.S. Customs and Border Protection in-  
8 spection area and such individual’s clearance by a  
9 U.S. Customs and Border Protection officer.

10 “(o) OTHER AUTHORITIES.—

11 “(1) IN GENERAL.—The Secretary may estab-  
12 lish such other offices or Assistant Commissioners  
13 (or other similar officers or officials) as the Sec-  
14 retary determines necessary to carry out the mis-  
15 sions, duties, functions, and authorities of U.S. Cus-  
16 toms and Border Protection.

17 “(2) NOTIFICATION.—If the Secretary exercises  
18 the authority provided pursuant to paragraph (1),  
19 the Secretary shall notify the appropriate congres-  
20 sional committees not later than 30 days before ex-  
21 ercising such authority.

22 “(p) OTHER FEDERAL AGENCIES.—Nothing in this  
23 section may be construed as affecting in any manner the  
24 authority, existing on the date of the enactment of the  
25 Trade Facilitation and Trade Enforcement Act of 2015,

1 of any other Federal agency, including the Transportation  
2 Security Administration, with respect to the duties of U.S.  
3 Customs and Border Protection described in subsection  
4 (c).”.

5 (b) SPECIAL RULES.—

6 (1) TREATMENT.—Section 411 of the Home-  
7 land Security Act of 2002, as amended by subsection  
8 (a) of this section, shall be treated as if included in  
9 such Act as of the date of the enactment of such  
10 Act, and, in addition to the functions, missions, du-  
11 ties, and authorities specified in such amended sec-  
12 tion 411, U.S. Customs and Border Protection shall  
13 continue to perform and carry out the functions,  
14 missions, duties, and authorities under section 411  
15 of such Act as in existence on the day before such  
16 date of enactment, and section 415 of such Act.

17 (2) RULES OF CONSTRUCTION.—

18 (A) RULES AND REGULATIONS.—Notwith-  
19 standing paragraph (1), nothing in this title or  
20 any amendment made by this title may be con-  
21 strued as affecting in any manner any rule or  
22 regulation issued or promulgated pursuant to  
23 any provision of law, including section 411 of  
24 the Homeland Security Act of 2002 as in exist-  
25 ence on the day before the date of the enact-

1           ment of this Act, and any such rule or regula-  
2           tion shall continue to have full force and effect  
3           on and after such date.

4           (B) OTHER ACTIONS.—Notwithstanding  
5           paragraph (1), nothing in this Act may be con-  
6           strued as affecting in any manner any action,  
7           determination, policy, or decision pursuant to  
8           section 411 of the Homeland Security Act of  
9           2002 as in existence on the day before the date  
10          of the enactment of this Act, and any such ac-  
11          tion, determination, policy, or decision shall  
12          continue to have full force and effect on and  
13          after such date.

14          (c) CONTINUATION IN OFFICE.—

15           (1) COMMISSIONER.—The individual serving as  
16           the Commissioner of Customs on the day before the  
17           date of the enactment of this Act may serve as the  
18           Commissioner of U.S. Customs and Border Protec-  
19           tion on and after such date of enactment until a  
20           Commissioner of U.S. Customs and Border Protec-  
21           tion is appointed under section 411 of the Homeland  
22           Security Act of 2002, as amended by subsection (a)  
23           of this section.

24           (2) OTHER POSITIONS.—The individuals serv-  
25           ing as Assistant Commissioners and other officers

1 and officials under section 411 of the Homeland Se-  
2 curity Act of 2002 on the day before the date of the  
3 enactment of this Act may serve as the appropriate  
4 Assistant Commissioners and other officers and offi-  
5 cials under such section 411 as amended by sub-  
6 section (a) of this section unless the Commissioner  
7 of U.S. Customs and Border Protection determines  
8 that another individual should hold such position or  
9 positions.

10 (d) REFERENCE.—

11 (1) TITLE 5.—Section 5314 of title 5, United  
12 States Code, is amended by striking “Commissioner  
13 of Customs, Department of Homeland Security” and  
14 inserting “Commissioner of U.S. Customs and Bor-  
15 der Protection, Department of Homeland Security”.

16 (2) OTHER REFERENCES.—On and after the  
17 date of the enactment of this Act, any reference in  
18 law or regulations to the “Commissioner of Cus-  
19 toms” or the “Commissioner of the Customs Serv-  
20 ice” shall be deemed to be a reference to the Com-  
21 missioner of U.S. Customs and Border Protection.

22 (e) CLERICAL AMENDMENT.—The table of contents  
23 in section 1(b) of the Homeland Security Act of 2002 (6  
24 U.S.C. 101 et seq.) is amended by striking the item relat-  
25 ing to section 411 and inserting the following new item:



“Sec. 411. Establishment of U.S. Customs and Border Protection; Commissioner, Deputy Commissioner, and operational offices.”.

1 (f) REPEALS.—Sections 416 and 418 of the Home-  
2 land Security Act of 2002 (6 U.S.C. 216 and 218), and  
3 the items relating to such sections in the table of contents  
4 in section 1(b) of such Act, are repealed.

5 (g) CLERICAL AND CONFORMING AMENDMENTS.—

6 (1) IN GENERAL.—The Homeland Security Act  
7 of 2002 (6 U.S.C. 101 et seq.) is amended—

8 (A) in title I—

9 (i) in section 102(f)(10) (6 U.S.C.  
10 112(f)(10)), by striking “the Directorate of  
11 Border and Transportation Security” and  
12 inserting “the Commissioner of U.S. Cus-  
13 toms and Border Protection”; and

14 (ii) in section 103(a)(1) (6 U.S.C.  
15 113(a)(1))—

16 (I) in subparagraph (C), by strik-  
17 ing “An Under Secretary for Border  
18 and Transportation Security.” and in-  
19 serting “A Commissioner of U.S. Cus-  
20 toms and Border Protection.”; and

21 (II) in subparagraph (G), by  
22 striking “A Director of the Office of  
23 Counternarcotics Enforcement.” and  
24 inserting “A Director of U.S. Immi-

1                   gration and Customs Enforcement.”;

2                   and

3                   (B) in title IV—

4                   (i) by striking the title heading and

5                   inserting “**BORDER, MARITIME,**

6                   **AND TRANSPORTATION SECUR-**

7                   **RITY”;**

8                   (ii) in subtitle A—

9                   (I) by striking the subtitle head-

10                  ing and inserting “**Border, Mari-**

11                  **time, and Transportation Se-**

12                  **curity Responsibilities and**

13                  **Functions”;** and

14                  (II) in section 402 (6 U.S.C.

15                  202)—

16                  (aa) in the section heading,

17                  by striking “**RESPONSIBIL-**

18                  **ITIES”** and inserting “**BORDER,**

19                  **MARITIME, AND TRANSPOR-**

20                  **TATION RESPONSIBILITIES”;**

21                  and

22                  (bb) by striking “, acting

23                  through the Under Secretary for

24                  Border and Transportation Secu-

25                  rity,”;

1 (iii) in subtitle B—

2 (I) by striking the subtitle head-  
3 ing and inserting “**U.S. Customs**  
4 **and Border Protection**”;

5 (II) in section 412(b) (6 U.S.C.  
6 212), by striking “the United States  
7 Customs Service” each place it ap-  
8 pears and inserting “U.S. Customs  
9 and Border Protection”;

10 (III) in section 413 (6 U.S.C.  
11 213), by striking “available to the  
12 United States Customs Service or”;

13 (IV) in section 414 (6 U.S.C.  
14 214), by striking “the United States  
15 Customs Service” and inserting “U.S.  
16 Customs and Border Protection”; and

17 (V) in section 415 (6 U.S.C.  
18 215)—

19 (aa) in paragraph (7), by in-  
20 serting before the colon the fol-  
21 lowing: “, and of U.S. Customs  
22 and Border Protection on the day  
23 before the effective date of the  
24 U.S. Customs and Border Pro-  
25 tection Authorization Act”; and

1 (bb) in paragraph (8), by in-  
2 serting before the colon the fol-  
3 lowing: “, and of U.S. Customs  
4 and Border Protection on the day  
5 before the effective date of the  
6 U.S. Customs and Border Pro-  
7 tection Authorization Act”;

8 (iv) in subtitle C—

9 (I) by striking section 424 (6  
10 U.S.C. 234) and inserting the fol-  
11 lowing new section:

12 **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**

13 **ADMINISTRATION AS A DISTINCT ENTITY.**

14 “Notwithstanding any other provision of this Act, the  
15 Transportation Security Administration shall be main-  
16 tained as a distinct entity within the Department.”; and

17 (II) in section 430 (6 U.S.C.  
18 238)—

19 (aa) by amending subsection  
20 (a) to read as follows:

21 “(a) **ESTABLISHMENT.**—There is established in the  
22 Department an Office for Domestic Preparedness.”;

23 (bb) in subsection (b), by  
24 striking the second sentence; and

1 (cc) in subsection (e)(7), by  
2 striking “Directorate” and in-  
3 serting “Department”; and

4 (v) in subtitle D—

5 (I) in section 441 (6 U.S.C.  
6 251)—

7 (aa) by striking the section  
8 heading and inserting “**TRANS-**  
9 **FER OF FUNCTIONS**”; and

10 (bb) by striking “Under Sec-  
11 retary for Border and Transpor-  
12 tation Security” and inserting  
13 “Secretary”;

14 (II) in section 443 (6 U.S.C.  
15 253)—

16 (aa) in the matter preceding  
17 paragraph (1), by striking  
18 “Under Secretary for Border and  
19 Transportation Security” and in-  
20 serting “Secretary”; and

21 (bb) by striking “the Bureau  
22 of Border Security” and insert-  
23 ing “U.S. Immigration and Cus-  
24 toms Enforcement” each place it  
25 appears; and

1 (III) by amending section 444 (6  
2 U.S.C. 254) to read as follows:

3 **“SEC. 444. EMPLOYEE DISCIPLINE.**

4 “Notwithstanding any other provision of law, the Sec-  
5 retary may impose disciplinary action on any employee of  
6 U.S. Immigration and Customs Enforcement and U.S.  
7 Customs and Border Protection who willfully deceives  
8 Congress or agency leadership on any matter.”.

9 (2) CONFORMING AMENDMENTS.—Section 401  
10 of the Homeland Security Act of 2002 (6 U.S.C.  
11 201) is repealed.

12 (3) CLERICAL AMENDMENTS.—The table of  
13 contents in section 1(b) of the Homeland Security  
14 Act of 2002 is amended—

15 (A) by striking the item relating to title IV  
16 and inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION  
SECURITY”;

17 (B) by striking the item relating to subtitle  
18 A of title IV and inserting the following:

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities  
and Functions”;

19 (C) by striking the item relating to section  
20 401;

21 (D) by striking the item relating to subtitle  
22 B of title IV and inserting the following:

“Subtitle B—U.S. Customs and Border Protection”;

1 (E) by striking the item relating to section  
2 441 and inserting the following:

“Sec. 441. Transfer of functions.”;

3 and

4 (F) by striking the item relating to section  
5 442 and inserting the following:

“Sec. 442. U.S. Immigration and Customs Enforcement.”.

6 (h) OFFICE OF TRADE.—

7 (1) TRADE OFFICES AND FUNCTIONS.—The Act  
8 of March 3, 1927 (44 Stat. 1381, chapter 348; 19  
9 U.S.C. 2071 et seq.), is amended by adding at the  
10 end the following:

11 **“SEC. 4. OFFICE OF TRADE.**

12 “(a) IN GENERAL.—There is established in U.S. Cus-  
13 toms and Border Protection an Office of Trade.

14 “(b) ASSISTANT COMMISSIONER.—

15 “(1) IN GENERAL.—There shall be at the head  
16 of the Office of Trade an Assistant Commissioner,  
17 who shall report to the Commissioner of U.S. Cus-  
18 toms and Border Protection.

19 “(2) QUALIFICATIONS.—The Assistant Com-  
20 missioner shall have a minimum of 10 years of pro-  
21 fessional experience with the customs and trade laws  
22 of the United States.

23 “(3) SENIOR EXECUTIVE SERVICE POSITION.—

24 The position of Assistant Commissioner for Trade

1 shall be a Senior Executive Service position (as de-  
2 fined in section 3132(a) of title 5, United States  
3 Code).

4 “(c) DUTIES.—The Office of Trade shall—

5 “(1) direct the development and implementa-  
6 tion, pursuant to the customs and trade laws of the  
7 United States, of policies and regulations adminis-  
8 tered by U.S. Customs and Border Protection;

9 “(2) advise the Commissioner with respect to  
10 the impact on trade facilitation and trade enforce-  
11 ment of any policy or regulation otherwise proposed  
12 or administered by U.S. Customs and Border Pro-  
13 tection;

14 “(3) coordinate and cooperate with the Assist-  
15 ant Commissioner for the Office of Field Operations  
16 with respect to the trade facilitation and trade en-  
17 forcement activities of U.S. Customs and Border  
18 Protection carried out at the land borders and ports  
19 of entry of the United States;

20 “(4) direct the development and implementation  
21 of matters relating to the priority trade issues iden-  
22 tified by the Commissioner of U.S. Customs and  
23 Border Protection in the joint strategic plan on  
24 trade facilitation and trade enforcement required



1 under section 123A of the Customs and Trade Act  
2 of 1990;

3 “(5) otherwise advise the Commissioner of U.S.  
4 Customs and Border Protection with respect to the  
5 development and implementation of the joint stra-  
6 tegic plan;

7 “(6) direct the trade enforcement activities of  
8 U.S. Customs and Border Protection;

9 “(7) oversee the trade modernization activities  
10 of U.S. Customs and Border Protection, including  
11 the development and implementation of the Auto-  
12 mated Commercial Environment computer system  
13 authorized under section 13031(f)(5) of the Consoli-  
14 dated Omnibus Budget and Reconciliation Act of  
15 1985 (19 U.S.C. 58e(f)(5)) and support for the es-  
16 tablishment of the International Trade Data System  
17 under the oversight of the Department of Treasury  
18 pursuant to section 411(d) of the Tariff Act of 1930  
19 (19 U.S.C. 1411(d));

20 “(8) direct the administration of customs rev-  
21 enue functions as otherwise provided by law or dele-  
22 gated by the Commissioner of U.S. Customs and  
23 Border Protection; and

24 “(9) prepare an annual report to be submitted  
25 to the Committee on Finance of the Senate and the

1 Committee on Ways and Means of the House of  
2 Representatives not later than March 1 of each cal-  
3 endar year that includes—

4 “(A) a summary of the changes to customs  
5 policies and regulations adopted by U.S. Cus-  
6 toms and Border Protection during the pre-  
7 ceding calendar year; and

8 “(B) a description of the public vetting  
9 and interagency consultation that occurred with  
10 respect to each such change.

11 “(d) TRANSFER OF ASSETS, FUNCTIONS, AND PER-  
12 SONNEL; ELIMINATION OF OFFICES.—

13 “(1) OFFICE OF INTERNATIONAL TRADE.—

14 “(A) TRANSFER.—Not later than 30 days  
15 after the date of the enactment of the Trade  
16 Facilitation and Trade Enforcement Act of  
17 2015, the Commissioner shall transfer the as-  
18 sets, functions, personnel, and liabilities of the  
19 Office of International Trade to the Office of  
20 Trade established under subsection (b).

21 “(B) ELIMINATION.—Not later than 30  
22 days after the date of enactment of the Trade  
23 Facilitation and Trade Enforcement Act of  
24 2015, the Office of International Trade shall be  
25 abolished.

1           “(C) LIMITATION ON FUNDS.—No funds  
2 appropriated to U.S. Customs and Border Pro-  
3 tection or the Department of Homeland Secu-  
4 rity may be used to transfer the assets, func-  
5 tions, personnel, and liabilities of the Office of  
6 International Trade to an office other than the  
7 Office of Trade established under subsection  
8 (a).

9           “(D) OFFICE OF INTERNATIONAL TRADE  
10 DEFINED.—In this paragraph, the term ‘Office  
11 of International Trade’ means the Office of  
12 International Trade established by section 2 of  
13 the Act of March 3, 1927 (44. Stat. 1381,  
14 chapter 348; 19 U.S.C. 2072), as added by sec-  
15 tion 402 of the Security and Accountability for  
16 Every Port Act of 2006 (Public Law 109–347;  
17 120 Stat. 1924), and as in effect on the day be-  
18 fore the date of the enactment of the Trade Fa-  
19 cilitation and Trade Enforcement Act of 2015.

20           “(2) OTHER TRANSFERS.—

21           “(A) IN GENERAL.—The Commissioner is  
22 authorized to transfer any other assets, func-  
23 tions, or personnel within U.S. Customs and  
24 Border Protection to the Office of Trade estab-  
25 lished under subsection (d).

1           “(B) CONGRESSIONAL NOTIFICATION.—  
2           Not less than 90 days prior to the transfer of  
3           assets, functions, or personnel under subpara-  
4           graph (A)(i), the Commissioner shall notify the  
5           Committee on Finance of the Senate, the Com-  
6           mittee on Homeland Security and Government  
7           Affairs of the Senate, the Committee on Ways  
8           and Means of the House of Representatives,  
9           and the Committee on Homeland Security of  
10          the House of Representatives of the specific as-  
11          sets, functions, or personnel to be transferred,  
12          and the reason for the transfer.

13          “(e) DEFINITIONS.—In this section, the terms ‘cus-  
14          toms and trade laws of the United States’, ‘trade enforce-  
15          ment’, and ‘trade facilitation’ have the meanings given  
16          such terms in section 2 of the Trade Facilitation and  
17          Trade Enforcement Act of 2015.”.

18          (2) CONTINUATION IN OFFICE.—The individual  
19          serving as the Assistant Commissioner of the Office  
20          of International Trade on the day before the date of  
21          the enactment of this Act may serve as the Assistant  
22          Commissioner for Trade on or after such date of en-  
23          actment, at the discretion of the Commissioner.

24          (3) CONFORMING AMENDMENTS.—Section 2 of  
25          the Act of March 3, 1927 (44. Stat. 1381, chapter

1 348; 19 U.S.C. 2072), as added by section 402 of  
2 the Security and Accountability for Every Port Act  
3 of 2006 (Public Law 109–347; 120 Stat. 1924), is  
4 amended—

5 (A) by striking subsection (d); and

6 (B) by redesignating subsections (e) and  
7 (f) as subsections (d) and (e), respectively.

8 (i) REPORTS AND ASSESSMENTS.—

9 (1) REPORT ON BUSINESS TRANSFORMATION  
10 INITIATIVE.—Not later than 90 days after the date  
11 of the enactment of this Act, the Commissioner of  
12 U.S. Customs and Border Protection shall submit to  
13 the Committee on Homeland Security and the Com-  
14 mittee on Ways and Means of the House of Rep-  
15 resentatives and the Committee on Homeland Secu-  
16 rity and Governmental Affairs and the Committee  
17 on Finance of the Senate a report on U.S. Customs  
18 and Border Protection’s Business Transformation  
19 Initiative, including locations where the Initiative is  
20 deployed, the types of equipment utilized, a descrip-  
21 tion of protocols and procedures, information on  
22 wait times at such locations since deployment, and  
23 information regarding the schedule for deployment  
24 at new locations.

1           (2) PORT OF ENTRY INFRASTRUCTURE NEEDS  
2 ASSESSMENTS.—Not later 180 days after the date of  
3 the enactment of this Act, the Commissioner of U.S.  
4 Customs and Border Protection shall assess the  
5 physical infrastructure and technology needs at the  
6 20 busiest land ports of entry (as measured by U.S.  
7 Customs and Border Protection) with a particular  
8 attention to identify ways to—

9                   (A) improve travel and trade facilitation;

10                   (B) reduce wait times;

11                   (C) improve physical infrastructure and  
12 conditions for individuals accessing pedestrian  
13 ports of entry;

14                   (D) enter into long-term leases with non-  
15 governmental and private sector entities;

16                   (E) enter into lease-purchase agreements  
17 with nongovernmental and private sector enti-  
18 ties; and

19                   (F) achieve cost savings through leases de-  
20 scribed in subparagraphs (D) and (E).

21           (3) PERSONAL SEARCHES.—Not later than 90  
22 days after the date of the enactment of this Act, the  
23 Commissioner of U.S. Customs and Border Protec-  
24 tion shall submit to the Committee on Homeland Se-  
25 curity of the House of Representatives and the Com-

1       mittee on Homeland Security and Governmental Af-  
2       fairs of the Senate a report on supervisor-approved  
3       personal searches conducted in the previous year by  
4       U.S. Customs and Border Protection personnel.  
5       Such report shall include the number of personal  
6       searches conducted in each sector and field office,  
7       the number of invasive personal searches conducted  
8       in each sector and field office, whether personal  
9       searches were conducted by Office of Field Oper-  
10      ations or U.S. Border Patrol personnel, and how  
11      many personal searches resulted in the discovery of  
12      contraband.

13      (j) TRUSTED TRAVELER PROGRAMS.—The Secretary  
14      of Homeland Security may not enter into or renew an  
15      agreement with the government of a foreign country for  
16      a trusted traveler program administered by U.S. Customs  
17      and Border Protection unless the Secretary certifies in  
18      writing that such government—

19            (1) routinely submits to INTERPOL for inclu-  
20            sion in INTERPOL’s Stolen and Lost Travel Docu-  
21            ments database information about lost and stolen  
22            passports and travel documents of the citizens and  
23            nationals of such country; or

1           (2) makes available to the United States Gov-  
2           ernment the information described in paragraph (1)  
3           through another means of reporting.

4           (k) SENSE OF CONGRESS REGARDING THE FOREIGN  
5           LANGUAGE AWARD PROGRAM.—

6           (1) FINDINGS.—Congress finds the following:

7                   (A) Congress established the Foreign Lan-  
8                   guage Award Program (FLAP) to incentivize  
9                   employees at United States ports of entry to  
10                  utilize their foreign language skills on the job  
11                  by providing a financial incentive for the use of  
12                  the foreign language for at least ten percent of  
13                  their duties after passage of competency tests.  
14                  FLAP incentivizes the use of more than two  
15                  dozen languages and has been instrumental in  
16                  identifying and utilizing U.S. Customs and Bor-  
17                  der Protection officers and agents who are pro-  
18                  ficient in a foreign language.

19                   (B) In 1993, Congress provided for dedi-  
20                   cated funding for this program by stipulating  
21                   that certain fees collected by U.S. Customs and  
22                   Border Protection be used to fund FLAP.

23                   (C) Through FLAP, foreign travelers are  
24                   aided by having an officer at a port of entry  
25                   who speaks their language, and U.S. Customs



1 and Border Protection benefits by being able to  
2 focus its border security efforts in a more effec-  
3 tive manner.

4 (2) SENSE OF CONGRESS.—It is the sense of  
5 Congress that FLAP incentivizes U.S. Customs and  
6 Border Protection officers to attain and maintain  
7 competency in a foreign language, thereby improving  
8 the efficiency of operations for the functioning of  
9 U.S. Customs and Border Protection’s security mis-  
10 sion, making the United States a more welcoming  
11 place when foreign travelers find officers can com-  
12 municate in their language, and helping to expedite  
13 traveler processing to reduce wait times.

14 **TITLE IX—MISCELLANEOUS**  
15 **PROVISIONS**

16 **SEC. 901. DE MINIMIS VALUE.**

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

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

1 **SEC. 902. 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. 903. 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. 904. 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. 905. 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 of U.S.  
13 Customs and Border Protection designates as in-  
14 struments 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. 906. 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”;

24 (5) by striking “an amount of drawback equal  
25 to” and all that follows through the end period and



1 inserting “an amount calculated pursuant to regula-  
2 tions prescribed by the Secretary of the Treasury  
3 under subsection (l), but only if those articles have  
4 not been used prior to such exportation or destruc-  
5 tion.”; and

6 (6) by adding at the end the following:

7 “(2) REQUIREMENTS RELATING TO TRANSFER  
8 OF MERCHANDISE.—

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

19 “(B) EXPORTERS AND DESTROYERS.—  
20 Drawback shall be allowed under paragraph (1)  
21 with respect to a manufactured or produced ar-  
22 ticle that is exported or destroyed only if the  
23 exporter or destroyer received that article, di-  
24 rectly or indirectly, from the manufacturer or  
25 producer.

1           “(C) EVIDENCE OF TRANSFER.—Transfers  
2 of merchandise under subparagraph (A) and  
3 transfers of articles under subparagraph (B)  
4 may be evidenced by business records kept in  
5 the normal course of business and no additional  
6 certificates of transfer or manufacture shall be  
7 required.

8           “(3) SUBMISSION OF BILL OF MATERIALS OR  
9 FORMULA.—

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

21           “(B) BILL OF MATERIALS AND FORMULA  
22 DEFINED.—In this paragraph, the terms ‘bill of  
23 materials’ and ‘formula’ mean records kept in  
24 the normal course of business that identify each  
25 component incorporated into a manufactured or

1 produced article or that identify the quantity of  
2 each element, material, chemical, mixture, or  
3 other substance incorporated into a manufac-  
4 tured article.

5 “(4) SPECIAL RULE FOR SOUGHT CHEMICAL  
6 ELEMENTS.—

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

9 “(i) considered imported merchandise,  
10 or merchandise classifiable under the same  
11 8-digit HTS subheading number as such  
12 imported merchandise, used in the manu-  
13 facture or production of an article as de-  
14 scribed in paragraph (1); and

15 “(ii) substituted for source material  
16 containing that sought chemical element,  
17 without regard to whether the sought  
18 chemical element and the source material  
19 are classifiable under the same 8-digit  
20 HTS subheading number, and apportioned  
21 quantitatively, as appropriate.

22 “(B) SOUGHT CHEMICAL ELEMENT DE-  
23 FINED.—In this paragraph, the term ‘sought  
24 chemical element’ means an element listed in  
25 the Periodic Table of Elements that is imported

1           into the United States or a chemical compound  
2           consisting of those elements, either separately  
3           in elemental form or contained in source mate-  
4           rial.”.

5           (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR  
6 SPECIFICATIONS.—Section 313(c) of the Tariff Act of  
7 1930 (19 U.S.C. 1313(c)) is amended—

8           (1) in paragraph (1)—

9                   (A) in subparagraph (C)(ii), by striking  
10 “under a certificate of delivery” each place it  
11 appears;

12                   (B) in subparagraph (D)—

13                           (i) by striking “3” and inserting “5”;

14                           and

15                           (ii) by striking “the Customs Service”

16                           and inserting “U.S. Customs and Border

17                           Protection”; and

18                   (C) in the flush text at the end, by striking

19 “the full amount of the duties paid upon such

20 merchandise, less 1 percent,” and inserting “an

21 amount calculated pursuant to regulations pre-

22 scribed by the Secretary of the Treasury under

23 subsection (1)”;.

1           (2) in paragraph (2), by striking “the Customs  
2           Service” and inserting “U.S. Customs and Border  
3           Protection”; and

4           (3) by amending paragraph (3) to read as fol-  
5           lows:

6           “(3) EVIDENCE OF TRANSFERS.—Transfers of  
7           merchandise under paragraph (1) may be evidenced  
8           by business records kept in the normal course of  
9           business and no additional certificates of transfer  
10          shall be required.”.

11          (d) PROOF OF EXPORTATION.—Section 313(i) of the  
12          Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read  
13          as follows:

14          “(i) PROOF OF EXPORTATION.—A person claiming  
15          drawback under this section based on the exportation of  
16          an article shall provide proof of the exportation of the arti-  
17          cle. Such proof of exportation—

18                 “(1) shall establish fully the date and fact of  
19                 exportation and the identity of the exporter; and

20                 “(2) may be established through the use of  
21                 records kept in the normal course of business or  
22                 through an electronic export system of the United  
23                 States Government, as determined by the Commis-  
24                 sioner of U.S. Customs and Border Protection.”.

1 (e) UNUSED MERCHANDISE DRAWBACK.—Section  
2 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is  
3 amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (A), in the matter  
6 preceding clause (i)—

7 (i) by striking “3-year” and inserting  
8 “5-year”; and

9 (ii) by inserting “and before the draw-  
10 back claim is filed” after “the date of im-  
11 portation”; and

12 (B) in the flush text at the end, by striking  
13 “99 percent of the amount of each duty, tax, or  
14 fee so paid” and inserting “an amount cal-  
15 culated pursuant to regulations prescribed by  
16 the Secretary of the Treasury under subsection  
17 (1)”;

18 (2) in paragraph (2)—

19 (A) in the matter preceding subparagraph  
20 (A), by striking “paragraph (4)” and inserting  
21 “paragraphs (4), (5), and (6)”;

22 (B) in subparagraph (A), by striking  
23 “commercially interchangeable with” and in-  
24 serting “classifiable under the same 8-digit  
25 HTS subheading number as”;

1 (C) in subparagraph (B)—

2 (i) by striking “3-year” and inserting  
3 “5-year”; and

4 (ii) by inserting “and before the draw-  
5 back claim is filed” after “the imported  
6 merchandise”; and

7 (D) in subparagraph (C)(ii), by striking  
8 subclause (II) and inserting the following:

9 “(II) received the imported mer-  
10 chandise, other merchandise classifi-  
11 able under the same 8-digit HTS sub-  
12 heading number as such imported  
13 merchandise, or any combination of  
14 such imported merchandise and such  
15 other merchandise, directly or indi-  
16 rectly from the person who imported  
17 and paid any duties, taxes, and fees  
18 imposed under Federal law upon im-  
19 portation or entry and due on the im-  
20 ported merchandise (and any such  
21 transferred merchandise, regardless of  
22 its origin, will be treated as the im-  
23 ported merchandise and any retained  
24 merchandise will be treated as domes-  
25 tic merchandise);”;

1 (E) in the flush text at the end—

2 (i) by striking “the amount of each  
3 such duty, tax, and fee” and all that fol-  
4 lows through “99 percent of that duty, tax,  
5 or fee” and inserting “an amount cal-  
6 culated pursuant to regulations prescribed  
7 by the Secretary of the Treasury under  
8 subsection (l) shall be refunded as draw-  
9 back”; and

10 (ii) by striking the last sentence and  
11 inserting the following: “Notwithstanding  
12 subparagraph (A), drawback shall be al-  
13 lowed under this paragraph with respect to  
14 wine if the imported wine and the exported  
15 wine are of the same color and the price  
16 variation between the imported wine and  
17 the exported wine does not exceed 50 per-  
18 cent. Transfers of merchandise may be evi-  
19 denced by business records kept in the nor-  
20 mal course of business and no additional  
21 certificates of transfer shall be required.”;  
22 and

23 (3) in paragraph (3)(B), by striking “the com-  
24 mercially interchangeable merchandise” and insert-  
25 ing “merchandise classifiable under the same 8-digit



1 HTS subheading number as such imported merchan-  
2 dise”; and

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

4 “(5)(A) For purposes of paragraph (2) and ex-  
5 cept as provided in subparagraph (B), merchandise  
6 may not be substituted for imported merchandise for  
7 drawback purposes based on the 8-digit HTS sub-  
8 heading number if the article description for the 8-  
9 digit HTS subheading number under which the im-  
10 ported merchandise is classified begins with the term  
11 ‘other’.

12 “(B) In cases described in subparagraph (A),  
13 merchandise may be substituted for imported mer-  
14 chandise for drawback purposes if—

15 “(i) the other merchandise and such im-  
16 ported merchandise are classifiable under the  
17 same 10-digit HTS statistical reporting num-  
18 ber; and

19 “(ii) the article description for that 10-  
20 digit HTS statistical reporting number does not  
21 begin with the term ‘other’.

22 “(6)(A) For purposes of paragraph (2), a draw-  
23 back claimant may use the first 8 digits of the 10-  
24 digit Schedule B number for merchandise or an arti-  
25 cle to determine if the merchandise or article is clas-

1       sifiable under the same 8-digit HTS subheading  
2       number as the imported merchandise, without re-  
3       gard to whether the Schedule B number corresponds  
4       to more than one 8-digit HTS subheading number.

5               “(B) In this paragraph, the term ‘Schedule B’  
6       means the Department of Commerce Schedule B,  
7       Statistical Classification of Domestic and Foreign  
8       Commodities Exported from the United States.”.

9       (f) LIABILITY FOR DRAWBACK CLAIMS.—Section  
10      313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is  
11      amended to read as follows:

12               “(k) LIABILITY FOR DRAWBACK CLAIMS.—

13                       “(1) IN GENERAL.—Any person making a claim  
14       for drawback under this section shall be liable for  
15       the full amount of the drawback claimed.

16                       “(2) LIABILITY OF IMPORTERS.—An importer  
17       shall be liable for any drawback claim made by an-  
18       other person with respect to merchandise imported  
19       by the importer in an amount equal to the lesser  
20       of—

21                               “(A) the amount of duties, taxes, and fees  
22       that the person claimed with respect to the im-  
23       ported merchandise; or

24                               “(B) the amount of duties, taxes, and fees  
25       that the importer authorized the other person

1 to claim with respect to the imported merchan-  
2 dise.

3 “(3) JOINT AND SEVERAL LIABILITY.—Persons  
4 described in paragraphs (1) and (2) shall be jointly  
5 and severally liable for the amount described in  
6 paragraph (2).”.

7 (g) REGULATIONS.—Section 313(l) of the Tariff Act  
8 of 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

9 “(l) REGULATIONS.—

10 “(1) IN GENERAL.—Allowance of the privileges  
11 provided for in this section shall be subject to com-  
12 pliance with such rules and regulations as the Sec-  
13 retary of the Treasury shall prescribe.

14 “(2) CALCULATION OF DRAWBACK.—

15 “(A) IN GENERAL.—Not later than the  
16 date that is 2 years after the date of the enact-  
17 ment of the Trade Facilitation and Trade En-  
18 forcement Act of 2015 (or, if later, the effective  
19 date provided for in section 906(q)(2)(B) of  
20 that Act), the Secretary shall prescribe regula-  
21 tions for determining the calculation of  
22 amounts refunded as drawback under this sec-  
23 tion.

24 “(B) CLAIMS WITH RESPECT TO UNUSED  
25 MERCHANDISE.—The regulations required by

1           subparagraph (A) for determining the calcula-  
2           tion of amounts refunded as drawback under  
3           this section shall provide for a refund of equal  
4           to 99 percent of the duties, taxes, and fees paid  
5           with respect to the imported merchandise, ex-  
6           cept that where there is substitution of the mer-  
7           chandise or article, then—

8                   “(i) in the case of an article that is  
9                   exported, the amount of the refund shall  
10                  be equal to 99 percent of the lesser of—

11                           “(I) the amount of duties, taxes,  
12                           and fees paid with respect to the im-  
13                           ported merchandise; or

14                           “(II) the amount of duties, taxes,  
15                           and fees that would apply to the ex-  
16                           ported article if the exported article  
17                           were imported; and

18                   “(ii) in the case of an article that is  
19                   destroyed, the amount of the refund shall  
20                  be an amount that is—

21                           “(I) equal to 99 percent of the  
22                           lesser of—

23                           “(aa) the amount of duties,  
24                           taxes, and fees paid with respect  
25                           to the imported merchandise; and

1                   “(bb) the amount of duties,  
2                   taxes, and fees that would apply  
3                   to the destroyed article if the de-  
4                   stroyed article were imported;  
5                   and

6                   “(II) reduced by the value of ma-  
7                   terials recovered during destruction as  
8                   provided in subsection (x).

9                   “(C) CLAIMS WITH RESPECT TO ARTICLES  
10                  INTO WHICH SUBSTITUTE MERCHANDISE IS IN-  
11                  CORPORATED.—The regulations required by  
12                  subparagraph (A) for determining the calcula-  
13                  tion of amounts refunded as drawback under  
14                  this section shall provide for a refund of 99 per-  
15                  cent of the duties, taxes, and fees paid with re-  
16                  spect to the imported merchandise incorporated  
17                  into an article that is exported or destroyed, ex-  
18                  cept that where there is substitution of the im-  
19                  ported merchandise, then—

20                         “(i) in the case of an article that is  
21                         exported, the amount of the refund shall  
22                         be equal to 99 percent of the lesser of—

23                                 “(I) the amount of duties, taxes,  
24                                 and fees paid with respect to the im-  
25                                 ported merchandise; or

1                   “(II) the amount of duties, taxes,  
2                   and fees that would apply to the sub-  
3                   stituted merchandise if the substituted  
4                   merchandise were imported; and

5                   “(ii) in the case of an article that is  
6                   destroyed, the amount of the refund shall  
7                   be an amount that is—

8                   “(I) equal to 99 percent of the  
9                   lesser of—

10                   “(aa) the amount of duties,  
11                   taxes, and fees paid with respect  
12                   to the imported merchandise; and

13                   “(bb) the amount of duties,  
14                   taxes, and fees that would apply  
15                   to the substituted merchandise if  
16                   the substituted merchandise were  
17                   imported; and

18                   “(II) reduced by the value of ma-  
19                   terials recovered during destruction as  
20                   provided in subsection (x).

21                   “(3) STATUS REPORTS ON REGULATIONS.—Not  
22                   later than the date that is one year after the date  
23                   of the enactment of the Trade Facilitation and  
24                   Trade Enforcement Act of 2015, and annually there-  
25                   after until the regulations required by paragraph (2)

1 are final, the Secretary shall submit to Congress a  
2 report on the status of those regulations.”.

3 (h) SUBSTITUTION OF FINISHED PETROLEUM DE-  
4 RIVATIVES.—Section 313(p) of the Tariff Act of 1930 (19  
5 U.S.C. 1313(p)) is amended—

6 (1) by striking “Harmonized Tariff Schedule of  
7 the United States” each place it appears and insert-  
8 ing “HTS”; and

9 (2) in paragraph (3)(A)—

10 (A) in clause (ii)(III), by striking “, as so  
11 certified in a certificate of delivery or certificate  
12 of manufacture and delivery”; and

13 (B) in the flush text at the end—

14 (i) by striking “, so designated on the  
15 certificate of delivery or certificate of man-  
16 ufacture and delivery”; and

17 (ii) by striking the last sentence and  
18 inserting the following: “The party trans-  
19 ferring the merchandise shall maintain  
20 records kept in the normal course of busi-  
21 ness to demonstrate the transfer.”.

22 (i) PACKAGING MATERIAL.—Section 313(q) of the  
23 Tariff Act of 1930 (19 U.S.C. 1313(q)) is amended—

24 (1) in paragraph (1), by striking “of 99 percent  
25 of any duty, tax, or fee imposed under Federal law

1 on such imported material” and inserting “in an  
2 amount calculated pursuant to regulations pre-  
3 scribed by the Secretary of the Treasury under sub-  
4 section (1)”;

5 (2) in paragraph (2), by striking “of 99 percent  
6 of any duty, tax, or fee imposed under Federal law  
7 on the imported or substituted merchandise used to  
8 manufacture or produce such material” and insert-  
9 ing “in an amount calculated pursuant to regula-  
10 tions prescribed by the Secretary of the Treasury  
11 under subsection (1)”;

12 (3) in paragraph (3), by striking “they contain”  
13 and inserting “it contains”.

14 (j) FILING OF DRAWBACK CLAIMS.—Section 313(r)  
15 of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amend-  
16 ed—

17 (1) in paragraph (1)—

18 (A) by striking the first sentence and in-  
19 serting the following: “A drawback entry shall  
20 be filed or applied for, as applicable, not later  
21 than 5 years after the date on which merchan-  
22 dise on which drawback is claimed was im-  
23 ported.”;

24 (B) in the second sentence, by striking “3-  
25 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 906(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) of this section, the  
5 Comptroller General of the United States shall sub-  
6 mit to the Committee on Finance of the Senate and  
7 the Committee on Ways and Means of the House of  
8 Representatives a report on the modernization of  
9 drawback and refunds under section 313 of the Tar-  
10 iff 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) apply to drawback claims filed on or  
7 after the date that is 2 years after such date  
8 of enactment.

9 (2) REPORTING OF OPERABILITY OF AUTO-  
10 MATED COMMERCIAL ENVIRONMENT COMPUTER SYS-  
11 TEM.—Not later than one year after the date of the  
12 enactment of this Act, and not later than 2 years  
13 after such date of enactment, the Secretary of the  
14 Treasury shall submit to Congress a report on—

15 (A) the date on which the Automated Com-  
16 mercial Environment will be ready to process  
17 drawback claims; and

18 (B) the date on which the Automated Ex-  
19 port System will be ready to accept proof of ex-  
20 portation under subsection (i) of section 313 of  
21 the Tariff Act of 1930, as amended by sub-  
22 section (d).

23 (3) TRANSITION RULE.—During the one-year  
24 period beginning on the date that is 2 years after  
25 the date of the enactment of this Act (or, if later,

1 the effective date provided for in paragraph (2)(B)),  
2 a person may elect to file a claim for drawback  
3 under—

4 (A) section 313 of the Tariff Act of 1930,  
5 as amended by this section; or

6 (B) section 313 of the Tariff Act of 1930,  
7 as in effect on the day before the date of the  
8 enactment of this Act.

9 **SEC. 907. OFFICE OF THE UNITED STATES TRADE REP-**  
10 **RESENTATIVE.**

11 (a) ANNUAL REPORT ON TRADE AGREEMENTS PRO-  
12 GRAM AND NATIONAL TRADE POLICY AGENDA.—Section  
13 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is  
14 amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (A), by striking  
17 “and” at the end;

18 (B) in subparagraph (B), by striking the  
19 period at the end and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(C) the operation of all United States  
22 Trade Representative-led interagency programs  
23 during the preceding year and for the year in  
24 which the report is submitted.”; and

25 (2) by adding at the end the following:

1           “(4) The report shall include, with respect to  
2 the matters referred to in paragraph (1)(C), infor-  
3 mation regarding—

4           “(A) the objectives and priorities of all  
5 United States Trade Representative-led inter-  
6 agency programs for the year, and the reasons  
7 therefor;

8           “(B) the actions proposed, or anticipated,  
9 to be undertaken during the year to achieve  
10 such objectives and priorities, including actions  
11 authorized under the trade laws and negotia-  
12 tions with foreign countries;

13           “(C) the role of each Federal agency par-  
14 ticipating in the interagency program in achiev-  
15 ing such objectives and priorities and activities  
16 of each agency with respect to their participa-  
17 tion in the program;

18           “(D) the United States Trade Representa-  
19 tive’s coordination of each participating Federal  
20 agency to more effectively achieve such objec-  
21 tives and priorities;

22           “(E) any proposed legislation necessary or  
23 appropriate to achieve any of such objectives or  
24 priorities; and

1           “(F) the progress that was made during  
2           the preceding year in achieving such objectives  
3           and priorities and coordination activities in-  
4           cluded in the statement provided for such year  
5           under this paragraph.”.

6           (b) RESOURCE MANAGEMENT AND STAFFING  
7 PLANS.—

8           (1) ANNUAL PLAN.—

9           (A) IN GENERAL.—The United States  
10          Trade Representative shall on an annual basis  
11          develop a plan—

12                   (i) to match available resources of the  
13                   Office of the United States Trade Rep-  
14                   resentative to projected workload and pro-  
15                   vide a detailed analysis of how the funds  
16                   allocated from the prior fiscal year to date  
17                   have been spent;

18                   (ii) to identify existing staff of the Of-  
19                   fice and new staff that will be necessary to  
20                   support the trade negotiation and enforce-  
21                   ment functions and powers of the Office  
22                   (including those of the Trade Policy Staff  
23                   Committee) as described in section 141 of  
24                   the Trade Act of 1974 (19 U.S.C. 2171)



1 and section 301 of the Trade Act of 1974  
2 (19 U.S.C. 2411);

3 (iii) to identify existing staff of the  
4 Office and staff of other Federal agencies  
5 who will be required to be detailed to sup-  
6 port United States Trade Representative-  
7 led interagency programs, including any  
8 associated expenses; and

9 (iv) to provide a detailed analysis of  
10 the budgetary requirements of United  
11 States Trade Representative-led inter-  
12 agency programs for the next fiscal year  
13 and provide a detailed analysis of how the  
14 funds allocated from the prior fiscal year  
15 to date have been spent.

16 (B) REPORT.—The United States Trade  
17 Representative shall submit to the Committee  
18 on Ways and Means and the Committee on Ap-  
19 propriations of the House of Representatives  
20 and the Committee on Finance and the Com-  
21 mittee on Appropriations of the Senate a report  
22 that contains the plan required under subpara-  
23 graph (A). The report required under this sub-  
24 paragraph shall be submitted in conjunction  
25 with the annual budget of the United States

1 Government required to be submitted to Con-  
2 gress under section 1105 of title 31, United  
3 States Code.

4 (2) QUADRENNIAL PLAN.—

5 (A) IN GENERAL.—Pursuant to the goals  
6 and objectives of the strategic plan of the Office  
7 of the United States Trade Representative as  
8 required under section 306 of title 5, United  
9 States Code, the United States Trade Rep-  
10 resentative shall every 4 years develop a plan—

11 (i) to analyze internal quality controls  
12 and record management of the Office;

13 (ii) to identify existing staff of the Of-  
14 fice and new staff that will be necessary to  
15 support the trade negotiation and enforce-  
16 ment functions and powers of the Office  
17 (including those of the Trade Policy Staff  
18 Committee) as described in section 141 of  
19 the Trade Act of 1974 (19 U.S.C. 2171)  
20 and section 301 of the Trade Act of 1974  
21 (19 U.S.C. 2411);

22 (iii) to identify existing staff of the  
23 Office and staff in other Federal agencies  
24 who will be required to be detailed to sup-  
25 port United States Trade Representative-

1 led interagency programs, including any  
2 associated expenses;

3 (iv) to provide an outline of budget  
4 justifications, including salaries and ex-  
5 penses as well as non-personnel adminis-  
6 trative expenses, for the fiscal years re-  
7 quired under the strategic plan; and

8 (v) to provide an outline of budget  
9 justifications, including salaries and ex-  
10 penses as well as non-personnel adminis-  
11 trative expenses, for United States Trade  
12 Representative-led interagency programs  
13 for the fiscal years required under the  
14 strategic plan.

15 (B) REPORT.—

16 (i) IN GENERAL.—The United States  
17 Trade Representative shall submit to the  
18 Committee on Ways and Means and the  
19 Committee on Appropriations of the House  
20 of Representatives and the Committee on  
21 Finance and the Committee on Appropria-  
22 tions of the Senate a report that contains  
23 the plan required under subparagraph (A).  
24 Except as provided in clause (ii), the re-  
25 port required under this clause shall be

1 submitted in conjunction with the strategic  
2 plan of the Office as required under sec-  
3 tion 306 of title 5, United States Code.

4 (ii) EXCEPTION.—The United States  
5 Trade Representative shall submit to the  
6 congressional committees specified in  
7 clause (i) an initial report that contains  
8 the plan required under subparagraph (A)  
9 not later than February 1, 2016.

10 **SEC. 908. UNITED STATES-ISRAEL TRADE AND COMMER-**  
11 **CIAL ENHANCEMENT.**

12 (a) FINDINGS.—Congress finds the following:

13 (1) Israel is America’s dependable, democratic  
14 ally in the Middle East—an area of paramount stra-  
15 tegic importance to the United States.

16 (2) The United States-Israel Free Trade Agree-  
17 ment formed the modern foundation of the bilateral  
18 commercial relationship between the two countries  
19 and was the first such agreement signed by the  
20 United States with a foreign country.

21 (3) The United States-Israel Free Trade Agree-  
22 ment has been instrumental in expanding commerce  
23 and the strategic relationship between the United  
24 States and Israel.

1           (4) More than \$45 billion in goods and services  
2 is traded annually between the two countries in ad-  
3 dition to roughly \$10 billion in United States foreign  
4 direct investment in Israel.

5           (5) The United States continues to look for and  
6 find new opportunities to enhance cooperation with  
7 Israel, including through the enactment of the  
8 United States-Israel Enhanced Security Cooperation  
9 Act of 2012 (Public Law 112–150) and the United  
10 States-Israel Strategic Partnership Act of 2014  
11 (Public Law 113–296).

12           (6) It has been the policy of the United States  
13 Government to combat all elements of the Arab  
14 League Boycott of Israel by—

15                   (A) public statements of Administration of-  
16 ficials;

17                   (B) enactment of relevant sections of the  
18 Export Administration Act of 1979 (as contin-  
19 ued in effect pursuant to the International  
20 Emergency Economic Powers Act), including  
21 sections to ensure foreign persons comply with  
22 applicable reporting requirements relating to  
23 the boycott;

1 (C) enactment of the 1976 Tax Reform  
2 Act (Public Law 94-455) that denies certain  
3 tax benefits to entities abiding by the boycott;

4 (D) ensuring through free trade agree-  
5 ments with Bahrain and Oman that such coun-  
6 tries no longer participate in the boycott; and

7 (E) ensuring as a condition of membership  
8 in the World Trade Organization that Saudi  
9 Arabia no longer enforces the secondary or ter-  
10 tiary elements of the boycott.

11 (b) STATEMENTS OF POLICY.—Congress—

12 (1) supports the strengthening of United  
13 States-Israel economic cooperation and recognizes  
14 the tremendous strategic, economic, and techno-  
15 logical value of cooperation with Israel;

16 (2) recognizes the benefit of cooperation with  
17 Israel to United States companies, including by im-  
18 proving American competitiveness in global markets;

19 (3) recognizes the importance of trade and com-  
20 mercial relations to the pursuit and sustainability of  
21 peace, and supports efforts to bring together the  
22 United States, Israel, the Palestinian territories, and  
23 others in enhanced commerce;

24 (4) opposes politically motivated actions that  
25 penalize or otherwise limit commercial relations spe-

1 cifically with Israel such as boycotts, divestment or  
2 sanctions;

3 (5) notes that the boycott, divestment, and  
4 sanctioning of Israel by governments, governmental  
5 bodies, quasi-governmental bodies, international or-  
6 ganizations, and other such entities is contrary to  
7 the General Agreement on Tariffs and Trade  
8 (GATT) principle of non-discrimination;

9 (6) encourages the inclusion of politically moti-  
10 vated actions that penalize or otherwise limit com-  
11 mercial relations specifically with Israel such as boy-  
12 cotts, divestment from, or sanctions against Israel as  
13 a topic of discussion at the U.S.-Israel Joint Eco-  
14 nomic Development Group (JEDG) and other areas  
15 to support the strengthening of the United States-  
16 Israel commercial relationship and combat any com-  
17 mercial discrimination against Israel;

18 (7) supports efforts to prevent investigations or  
19 prosecutions by governments or international organi-  
20 zations of United States persons on the sole basis of  
21 such persons doing business with Israel, with Israeli  
22 entities, or in Israeli-controlled territories; and

23 (8) supports American States examining a com-  
24 pany's promotion or compliance with unsanctioned  
25 boycotts, divestment from, or sanctions against

1 Israel as part of its consideration in awarding grants  
2 and contracts and supports the divestment of State  
3 assets from companies that support or promote ac-  
4 tions to boycott, divest from, or sanction Israel.

5 (c) PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF  
6 THE UNITED STATES.—

7 (1) COMMERCIAL PARTNERSHIPS.—Among the  
8 principal trade negotiating objectives of the United  
9 States for proposed trade agreements with foreign  
10 countries regarding commercial partnerships are the  
11 following:

12 (A) To discourage actions by potential  
13 trading partners that directly or indirectly prej-  
14 udice or otherwise discourage commercial activ-  
15 ity solely between the United States and Israel.

16 (B) To discourage politically motivated ac-  
17 tions to boycott, divest from, or sanction Israel  
18 and to seek the elimination of politically moti-  
19 vated non-tariff barriers on Israeli goods, serv-  
20 ices, or other commerce imposed on the State of  
21 Israel.

22 (C) To seek the elimination of state-spon-  
23 sored unsanctioned foreign boycotts against  
24 Israel or compliance with the Arab League Boy-  
25 cott of Israel by prospective trading partners.



1           (2) EFFECTIVE DATE.—This subsection takes  
2 effect on the date of the enactment of this Act and  
3 applies with respect to negotiations commenced be-  
4 fore, on, or after the date of the enactment of this  
5 Act.

6           (d) REPORT ON POLITICALLY MOTIVATED ACTS OF  
7 BOYCOTT, DIVESTMENT FROM, AND SANCTIONS AGAINST  
8 ISRAEL.—

9           (1) IN GENERAL.—Not later than 180 days  
10 after the date of the enactment of this Act, and an-  
11 nually thereafter, the President shall submit to Con-  
12 gress a report on politically motivated acts of boy-  
13 cott, divestment from, and sanctions against Israel.

14           (2) MATTERS TO BE INCLUDED.—The report  
15 required by paragraph (1) shall include the fol-  
16 lowing:

17           (A) A description of the establishment of  
18 barriers to trade, including non-tariff barriers,  
19 investment, or commerce by foreign countries or  
20 international organizations against United  
21 States persons operating or doing business in  
22 Israel, with Israeli entities, or in Israeli-con-  
23 trolled territories.

24           (B) A description of specific steps being  
25 taken by the United States to encourage foreign

1 countries and international organizations to  
2 cease creating such barriers and to dismantle  
3 measures already in place and an assessment of  
4 the effectiveness of such steps.

5 (C) A description of specific steps being  
6 taken by the United States to prevent investiga-  
7 tions or prosecutions by governments or inter-  
8 national organizations of United States persons  
9 on the sole basis of such persons doing business  
10 with Israel, with Israeli entities, or in Israeli-  
11 controlled territories.

12 (D) Decisions by foreign persons, including  
13 corporate entities and state-affiliated financial  
14 institutions, that limit or prohibit economic re-  
15 lations with Israel or persons doing business in  
16 Israel or in Israeli controlled territories.

17 (e) CERTAIN FOREIGN JUDGMENTS AGAINST  
18 UNITED STATES PERSONS.—Notwithstanding any other  
19 provision of law, no domestic court shall recognize or en-  
20 force any foreign judgment entered against a United  
21 States person that conducts business operations in Israel,  
22 or any territory controlled by Israel, if the domestic court  
23 determines that the foreign judgment is based, in whole  
24 or in part, on a determination by a foreign court that the  
25 United States person's conducting business operations

1 therein or with Israeli entities constitutes a violation of  
2 law.

3 (f) DEFINITIONS.—In this section:

4 (1) BOYCOTT, DIVESTMENT FROM, AND SANC-  
5 TIONS AGAINST ISRAEL.—The term “boycott, divest-  
6 ment from, and sanctions against Israel” means ac-  
7 tions by states, non-member states of the United  
8 Nations, international organizations, or affiliated  
9 agencies of international organizations that are po-  
10 litically motivated and are intended to penalize or  
11 otherwise limit commercial relations specifically with  
12 Israel or persons doing business in Israel or in  
13 Israeli-controlled territories.

14 (2) DOMESTIC COURT.—The term “domestic  
15 court” means a Federal court of the United States,  
16 or a court of any State or territory of the United  
17 States or of the District of Columbia.

18 (3) FOREIGN COURT.—The term “foreign  
19 court” means a court, an administrative body, or  
20 other tribunal of a foreign country.

21 (4) FOREIGN JUDGMENT.—The term “foreign  
22 judgment” means a final civil judgment rendered by  
23 a foreign court.

24 (5) FOREIGN PERSON.—The term “foreign per-  
25 son” means—

1 (A) any natural person who is not lawfully  
2 admitted for permanent residence (as defined in  
3 section 101(a)(20) of the Immigration and Na-  
4 tionality Act (8 U.S.C. 1101(a)(20)) or who is  
5 not a protected individual (as defined in section  
6 274B(a)(3) of such Act (8 U.S.C. 1324b(a)(3));  
7 or

8 (B) any foreign corporation, business asso-  
9 ciation, partnership, trust, society or any other  
10 entity or group that is not incorporated or orga-  
11 nized to do business in the United States, as  
12 well as any international organization, foreign  
13 government and any agency or subdivision of  
14 foreign government, including a diplomatic mis-  
15 sion.

16 (6) PERSON.—

17 (A) IN GENERAL.—The term “person”  
18 means—

19 (i) a natural person;

20 (ii) a corporation, business associa-  
21 tion, partnership, society, trust, financial  
22 institution, insurer, underwriter, guar-  
23 antor, and any other business organization,  
24 any other nongovernmental entity, organi-

1                    zation, or group, and any governmental en-  
2                    tity operating as a business enterprise; and

3                    (iii) any successor to any entity de-  
4                    scribed in clause (ii).

5                    (B) APPLICATION TO GOVERNMENTAL EN-  
6                    TITIES.—The term “person” does not include a  
7                    government or governmental entity that is not  
8                    operating as a business enterprise.

9                    (7) UNITED STATES PERSON.—The term  
10                    “United States person” means—

11                    (A) a natural person who is a national of  
12                    the United States (as defined in section  
13                    101(a)(22) of the Immigration and Nationality  
14                    Act (8 U.S.C. 1101(a)(22))); or

15                    (B) a corporation or other legal entity  
16                    which is organized under the laws of the United  
17                    States, any State or territory thereof, or the  
18                    District of Columbia, if natural persons de-  
19                    scribed in subparagraph (A) own, directly or in-  
20                    directly, more than 50 percent of the out-  
21                    standing capital stock or other beneficial inter-  
22                    est in such legal entity.

1 **SEC. 909. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**  
2 **TION TO PROHIBITION ON IMPORTATION OF**  
3 **GOODS MADE WITH CONVICT LABOR,**  
4 **FORCED LABOR, OR INDENTURED LABOR; RE-**  
5 **PORT.**

6 (a) ELIMINATION OF CONSUMPTIVE DEMAND EX-  
7 CEPTION.—

8 (1) IN GENERAL.—Section 307 of the Tariff  
9 Act of 1930 (19 U.S.C. 1307) is amended by strik-  
10 ing “The provisions of this section” and all that fol-  
11 lows through “of the United States.”.

12 (2) EFFECTIVE DATE.—The amendment made  
13 by paragraph (1) shall take effect on the date that  
14 is 15 days after the date of the enactment of this  
15 Act.

16 (b) REPORT REQUIRED.—Not later than 180 days  
17 after the date of the enactment of this Act, and annually  
18 thereafter, the Commissioner shall submit to the Com-  
19 mittee on Finance of the Senate and the Committee on  
20 Ways and Means of the House of Representatives a report  
21 on compliance with section 307 of the Tariff Act of 1930  
22 (19 U.S.C. 1307) that includes the following:

23 (1) The number of instances in which merchan-  
24 dise was denied entry pursuant to that section dur-  
25 ing the 1-year period preceding the submission of  
26 the report.

1           (2) A description of the merchandise denied  
2 entry pursuant to that section.

3           (3) Such other information as the Commis-  
4 sioner considers appropriate with respect to moni-  
5 toring and enforcing compliance with that section.

6 **SEC. 910. CUSTOMS USER FEES.**

7           (a) IN GENERAL.—Section 13031(j)(3) of the Con-  
8 solidated Omnibus Budget Reconciliation Act of 1985 (19  
9 U.S.C. 58c(j)(3)) is amended by adding at the end the  
10 following:

11           “(C) Fees may be charged under paragraphs (9) and  
12 (10) of subsection (a) during the period beginning on July  
13 8, 2025, and ending on July 28, 2025.”.

14           (b) RATE FOR MERCHANDISE PROCESSING FEES.—  
15 Section 503 of the United States–Korea Free Trade  
16 Agreement Implementation Act (Public Law 112–41; 125  
17 Stat. 460) is amended—

18           (1) by striking “For the period” and inserting  
19 “(a) IN GENERAL.—For the period”; and

20           (2) by adding at the end the following:

21           “(b) ADDITIONAL PERIOD.—For the period begin-  
22 ning on July 1, 2025, and ending on July 14, 2025, sec-  
23 tion 13031(a)(9) of the Consolidated Omnibus Budget  
24 Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be  
25 applied and administered—

1           “(1) in subparagraph (A), by substituting  
2           ‘0.3464’ for ‘0.21’; and

3           “(2) in subparagraph (B)(i), by substituting  
4           ‘0.3464’ for ‘0.21’.”.

5   **SEC. 911. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER**  
6                           **PROTECTION AGREEMENTS.**

7           (a) IN GENERAL.—Not later than one year after en-  
8   tering into an agreement under a program specified in  
9   subsection (b), and annually thereafter until the termi-  
10   nation of the program, the Commissioner shall submit to  
11   the Committee on Finance of the Senate, the Committee  
12   on Ways and Means of the House of Representatives, the  
13   Committee on Homeland Security and Governmental Af-  
14   fairs of the Senate, and the Committee on Homeland Se-  
15   curity of the House of Representatives a report that in-  
16   cludes the following:

17           (1) A description of the development of the pro-  
18           gram.

19           (2) A description of the type of entity with  
20           which U.S. Customs and Border Protection entered  
21           into the agreement and the amount that entity reim-  
22           bursed U.S. Customs and Border Protection under  
23           the agreement.

24           (3) An identification of the type of port of entry  
25           to which the agreement relates and an assessment of



1       how the agreement provides economic benefits at the  
2       port of entry.

3           (4) A description of the services provided by  
4       U.S. Customs and Border Protection under the  
5       agreement during the year preceding the submission  
6       of the report.

7           (5) The amount of fees collected under the  
8       agreement during that year.

9           (6) A detailed accounting of how the fees col-  
10      lected under the agreement have been spent during  
11      that year.

12          (7) A summary of any complaints or criticism  
13      received by U.S. Customs and Border Protection  
14      during that year regarding the agreement.

15          (8) An assessment of the compliance of the en-  
16      tity described in paragraph (2) with the terms of the  
17      agreement.

18          (9) Recommendations with respect to how ac-  
19      tivities conducted pursuant to the agreement could  
20      function more effectively or better produce economic  
21      benefits.

22          (10) A summary of the benefits to and chal-  
23      lenges faced by U.S. Customs and Border Protection  
24      and the entity described in paragraph (2) under the  
25      agreement.

1 (b) PROGRAM SPECIFIED.—A program specified in  
2 this subsection is—

3 (1) the program for entering into reimbursable  
4 fee agreements for the provision of U.S. Customs  
5 and Border Protection services established by section  
6 560 of the Department of Homeland Security Ap-  
7 propriations Act, 2013 (division D of Public Law  
8 113–6; 127 Stat. 378); or

9 (2) the pilot program authorizing U.S. Customs  
10 and Border Protection to enter into partnerships  
11 with private sector and government entities at ports  
12 of entry established by section 559 of the Depart-  
13 ment of Homeland Security Appropriations Act,  
14 2014 (division F of Public Law 113–76; 6 U.S.C.  
15 211 note).

16 **SEC. 912. AMENDMENTS TO BIPARTISAN CONGRESSIONAL**  
17 **TRADE PRIORITIES AND ACCOUNTABILITY**  
18 **ACT OF 2015.**

19 (a) IMMIGRATION LAWS OF THE UNITED STATES.—  
20 Section 102(a) of the Bipartisan Congressional Trade Pri-  
21 orities and Accountability Act of 2015 is amended—

22 (1) in paragraph (12), by striking “and” at the  
23 end;

24 (2) in paragraph (13), by striking the period at  
25 the end and inserting “; and”; and

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

2 “(14) to ensure that trade agreements do not  
3 require changes to the immigration laws of the  
4 United States or obligate the United States to grant  
5 access or expand access to visas issued under section  
6 101(a)(15) of the Immigration and Nationality Act  
7 (8 U.S.C. 1101(a)(15)).”.

8 (b) GLOBAL WARMING.—Section 102(a) of the Bi-  
9 partisan Congressional Trade Priorities and Account-  
10 ability Act of 2015, as amended by subsection (a) of this  
11 section, is amended—

12 (1) in paragraph (13), by striking “and” at the  
13 end;

14 (2) in paragraph (14), by striking the period at  
15 the end and inserting “; and”; and

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

17 “(15) to ensure that trade agreements do not  
18 require changes to U.S. law or obligate the United  
19 States with respect to global warming or climate  
20 change.”.

21 (c) FISHERIES NEGOTIATIONS.—Section 102(b) of  
22 the Bipartisan Congressional Trade Priorities and Ac-  
23 countability Act of 2015 is amended by adding at the end  
24 the following:

1           “(22) FISHERIES NEGOTIATIONS.—The prin-  
2           cipal negotiating objectives of the United States with  
3           respect to trade in fish, seafood, and shellfish prod-  
4           ucts are to obtain competitive opportunities for  
5           United States exports of fish, seafood, and shellfish  
6           products in foreign markets substantially equivalent  
7           to the competitive opportunities afforded foreign ex-  
8           ports of fish, seafood, and shellfish products in  
9           United States markets and to achieve fairer and  
10          more open conditions of trade in fish, seafood, and  
11          shellfish products, including by reducing or elimi-  
12          nating tariff and non-tariff barriers and eliminating  
13          subsidies that distort trade.”.

14          (d) ACCREDITATION.—Section 104(e)(2)(C) of the  
15          Bipartisan Congressional Trade Priorities and Account-  
16          ability Act of 2015 is amended by inserting after the first  
17          sentence the following: “In addition, the chairman and  
18          ranking members described in subparagraphs (A)(i) and  
19          (B)(i) shall each be permitted to designate up to 3 per-  
20          sonnel with proper security clearances to serve as dele-  
21          gates to such negotiations.”.

22          (e) TRAFFICKING IN PERSONS.—Section 106(b)(6) of  
23          the Bipartisan Congressional Trade Priorities and Ac-  
24          countability Act of 2015 is amended—

1           (1) by redesignating subparagraph (B) as sub-  
2           paragraph (C); and

3           (2) by inserting after subparagraph (A) the fol-  
4           lowing:

5                   “(B) EXCEPTION.—

6                           “(i) INVOKING EXCEPTION.—If the  
7                           President submits to the appropriate con-  
8                           gressional committees a letter stating that  
9                           a country to which subparagraph (A) ap-  
10                          plies has taken concrete actions to imple-  
11                          ment the principal recommendations with  
12                          respect to that country in the most recent  
13                          annual report on trafficking in persons,  
14                          this paragraph shall not apply with respect  
15                          to agreements with that country.

16                           “(ii) CONTENT OF LETTER; PUBLIC  
17                           AVAILABILITY.—A letter submitted under  
18                           clause (i) with respect to a country shall—

19                                   “(I) include a description of the  
20                                   concrete actions that the country has  
21                                   taken to implement the principal rec-  
22                                   ommendations described in clause (i);  
23                                   and

24   “(II) be made available to the  
25   public.

1                   “(iii) APPROPRIATE CONGRESSIONAL  
2                   COMMITTEES DEFINED.—In this subpara-  
3                   graph, the term ‘appropriate congressional  
4                   committees’ means—

5                   “(I) the Committee on Ways and  
6                   Means and the Committee on Foreign  
7                   Affairs of the House of Representa-  
8                   tives; and

9                   “(II) the Committee on Finance  
10                  and the Committee on Foreign Rela-  
11                  tions of the Senate.”;

12           (f) TECHNICAL AMENDMENTS.—The Bipartisan  
13   Congressional Trade Priorities and Accountability Act of  
14   2015 is amended—

15           (1) in section 105(b)(3)—

16           (A) in subparagraph (A)(ii), by striking  
17           “section 102(b)(16)” and inserting “section  
18           102(b)(17)”;

19           (B) in subparagraph (B)(ii), by striking  
20           “section 102(b)(16)” and inserting “section  
21           102(b)(17)”;

22           (2) in section 106(b)(5), by striking “section  
23   102(b)(15)(C)” and inserting “section  
24   102(b)(16)(C)”.

1 (g) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect as if included in the enact-  
3 ment of the Bipartisan Congressional Trade Priorities and  
4 Accountability Act of 2015.

5 **SEC. 913. CERTAIN INTEREST TO BE INCLUDED IN DIS-**  
6 **TRIBUTIONS UNDER CONTINUED DUMPING**  
7 **AND SUBSIDY OFFSET ACT OF 2000.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, the Commissioner shall include in all distribu-  
10 tions of collected antidumping and countervailing duties  
11 described in subsection (b) all interest earned on such du-  
12 ties, including—

13 (1) interest accrued under section 778 of the  
14 Tariff Act of 1930 (19 U.S.C. 1677g),

15 (2) interest accrued under section 505(d) of the  
16 Tariff Act of 1930 (19 U.S.C. 1505(d)), and

17 (3) common-law equitable interest, and all in-  
18 terest under section 963 of the Revised Statutes of  
19 the United States (19 U.S.C. 580), awarded by a  
20 court against a surety's late payment of anti-  
21 dumping or countervailing duties and interest de-  
22 scribed in paragraph (1) or (2), under its bond,

23 which is, or was, realized through application of any pay-  
24 ment received on or after October 1, 2014, by U.S. Cus-  
25 toms and Border Protection under, or in connection with,

1 any customs bond pursuant to a court order or judgment,  
2 or any settlement for any such bond.

3 (b) DISTRIBUTIONS DESCRIBED.—The distributions  
4 described in subsection (a) are all distributions made on  
5 or after the date of the enactment of this Act pursuant  
6 to section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c)  
7 (as such section was in effect on February 7, 2006) of  
8 collected antidumping and countervailing duties assessed  
9 on or after October 1, 2000, on entries made through Sep-  
10 tember 30, 2007.

11 **SEC. 914. REPORT ON COMPETITIVENESS OF U.S. REC-**  
12 **REATIONAL PERFORMANCE OUTERWEAR IN-**  
13 **DUSTRY.**

14 Not later than June 1, 2016, the United States Inter-  
15 national Trade Commission shall submit to the Committee  
16 on Finance of the Senate and the Committee on Ways and  
17 Means of the House of Representatives a report on the  
18 competitiveness of the United States recreational perform-  
19 ance outwear industry and its effects on the United States  
20 economy, including an assessment of duty structures on  
21 inputs as well as finished products and global supply  
22 chains.



1 **SEC. 915. INCREASE IN PENALTY FOR FAILURE TO FILE RE-**  
2 **TURN OF TAX.**

3 (a) **IN GENERAL.**—Section 6651(a) of the Internal  
4 Revenue Code of 1986 is amended by striking “\$135” in  
5 the last sentence and inserting “\$205”.

6 (b) **CONFORMING AMENDMENT.**—Section 6651(i) of  
7 such Code is amended by striking “\$135” and inserting  
8 “\$205”.

9 (c) **EFFECTIVE DATE.**—The amendments made by  
10 this section shall apply to returns required to be filed in  
11 calendar years after 2015.

