

113TH CONGRESS  
1ST SESSION

# S. 662

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

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IN THE SENATE OF THE UNITED STATES

MARCH 22, 2013

Mr. BAUCUS (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Trade Facilitation and Trade Enforcement Reauthoriza-  
6 tion Act of 2013”.

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

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

TITLE I—CUSTOMS ORGANIZATION

Subtitle A—Functions Other Than Investigative Functions

- Sec. 101. Establishment of U.S. Customs and Border Protection Agency; Commissioner.
- Sec. 102. Officers and employees.
- Sec. 103. Separate budget requests for U.S. Customs and Border Protection Agency.
- Sec. 104. Revolving fund.
- Sec. 105. Advances in foreign countries.
- Sec. 106. Advances for enforcement of customs provisions.
- Sec. 107. Certification of reason for advance.
- Sec. 108. Payments in foreign countries; claims for reimbursement.
- Sec. 109. Customs administration.
- Sec. 110. Personnel.
- Sec. 111. Authorization of appropriations.

Subtitle B—Investigative Functions

- Sec. 121. Establishment of U.S. Immigration and Customs Enforcement Agency.
- Sec. 122. Separate budget requests for U.S. Immigration and Customs Enforcement Agency.
- Sec. 123. Undercover investigative operations.
- Sec. 124. Authorization of appropriations.

Subtitle C—Joint Strategic Plan on Trade Facilitation and Trade Enforcement

- Sec. 131. Joint strategic plan on trade facilitation and trade enforcement.

TITLE II—TRADE FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY

Subtitle A—Trade Facilitation and Transparency

- Sec. 201. Improving partnership programs.
- Sec. 202. Trade facilitation partnership program.
- Sec. 203. Centers of Excellence and Expertise.
- Sec. 204. Mutual recognition agreements.
- Sec. 205. Customs Operations Advisory Committee.
- Sec. 206. Automated Commercial Environment computer system.
- Sec. 207. International Trade Data System.
- Sec. 208. Electronic submission of public comments.

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL TARGETING

- Sec. 211. Commercial Targeting Division and National Targeting and Analysis Groups.
- Sec. 212. Annual illegal drug control law enforcement strategy.
- Sec. 213. Report on oversight of revenue protection and enforcement measures by the inspector general.
- Sec. 214. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 215. Importer of record program.

CHAPTER 2—IMPORT HEALTH AND SAFETY

- Sec. 221. Interagency Import Safety Working Group.
- Sec. 222. Joint import safety rapid response plan.
- Sec. 223. Training.

#### CHAPTER 3—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

##### SUBCHAPTER A—NATIONAL INTELLECTUAL PROPERTY RIGHTS COORDINATION CENTER

- Sec. 231. National Intellectual Property Rights Coordination Center.

##### SUBCHAPTER B—AMENDMENTS TO THE TARIFF ACT OF 1930

- Sec. 241. Provision to rights owners of information about and samples of merchandise suspected of infringing trademarks or copyrights.
- Sec. 242. Enforcement by the U.S. Customs and Border Protection Agency of works for which a copyright registration is pending.
- Sec. 243. Seizure of circumvention devices.

##### SUBCHAPTER C—OTHER MATTERS

- Sec. 251. Definition of intellectual property rights.
- Sec. 252. Joint strategic plan for the enforcement of intellectual property rights.
- Sec. 253. Personnel dedicated to the enforcement of intellectual property rights.
- Sec. 254. Training with respect to the enforcement of intellectual property rights.
- Sec. 255. Information for travelers regarding violations of intellectual property rights.
- Sec. 256. International cooperation and information sharing.
- Sec. 257. Sense of Congress regarding recordation process.
- Sec. 258. Report on intellectual property rights enforcement.

#### CHAPTER 4—COORDINATION OF TRADE ENFORCEMENT PRIORITIES

- Sec. 261. Establishment of priority trade enforcement coordination centers.

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

- Sec. 301. Short title.
- Sec. 302. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
- Sec. 303. Annual report on prevention and investigation of evasion of anti-dumping and countervailing duty orders.

#### TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Consultation on trade and customs revenue functions.
- Sec. 402. Drawback simplification.
- Sec. 403. Penalties for customs brokers.
- Sec. 404. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 405. Charter flights.
- Sec. 406. Pilot program to designate additional 24-hour commercial ports of entry.

Sec. 407. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.

Sec. 408. Honey transshipment.

Sec. 409. Contraband archaeological or ethnological materials.

Sec. 410. De minimis value and entry under regulations.

Sec. 411. Repeal of authority of U.S. Customs and Border Protection Agency to enter into certain reimbursable fee agreements.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **COMMERCIAL OPERATIONS.**—The term  
4 “commercial operations”, with respect to the U.S.  
5 Customs and Border Protection Agency, means the  
6 operations described in section 1(c)(2) of the Act of  
7 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
8 U.S.C. 2071), as amended by section 101 of this  
9 Act.

10 (2) **COMMISSIONER.**—The term “Commis-  
11 sioner” means the Commissioner of U.S. Customs  
12 and Border Protection (as established under section  
13 1 of the Act of March 3, 1927 (44 Stat. 1381, chap-  
14 ter 348; 19 U.S.C. 2071), as amended by section  
15 101 of this Act).

16 (3) **CUSTOMS OPERATIONS ADVISORY COM-  
17 MITTEE.**—The term “Customs Operations Advisory  
18 Committee” means the Advisory Committee estab-  
19 lished under section 205 of this Act or any successor  
20 committee.

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

4           (A) The Tariff Act of 1930 (19 U.S.C.  
5 1202 et seq.).

6           (B) Section 249 of the Revised Statutes  
7 (19 U.S.C. 3).

8           (C) Section 2 of the Act of March 4, 1923  
9 (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

10          (D) The Act of March 3, 1927 (44 Stat.  
11 1381, chapter 348; 19 U.S.C. 2071 et seq.).

12          (E) Section 13031 of the Consolidated  
13 Omnibus Budget Reconciliation Act of 1985  
14 (19 U.S.C. 58c).

15          (F) Section 251 of the Revised Statutes  
16 (19 U.S.C. 66).

17          (G) Section 1 of the Act of June 26, 1930  
18 (46 Stat. 817, chapter 617; 19 U.S.C. 68).

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

21          (I) Section 1 of the Act of March 2, 1911  
22 (36 Stat. 965, chapter 191; 19 U.S.C. 198).

23          (J) The Trade Act of 1974 (19 U.S.C.  
24 2102 et seq.).

1           (K) The Trade Agreements Act of 1979  
2           (19 U.S.C. 2501 et seq.).

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

6           (M) The Uruguay Round Agreements Act  
7           (19 U.S.C. 3501 et seq.).

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

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

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

14          (Q) The Customs Enforcement Act of  
15          1986 (Public Law 99–570; 100 Stat. 3207–79).

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

18          (S) The Customs Procedural Reform and  
19          Simplification Act of 1978 (Public Law 95–  
20          410; 92 Stat. 888).

21          (T) The Trade Act of 2002 (Public Law  
22          107–210; 116 Stat. 933).

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

1 (V) The Act of March 28, 1928 (45 Stat.  
2 374, chapter 266; 19 U.S.C. 2077 et seq.)

3 (W) The Act of August 7, 1939 (53 Stat.  
4 1263, chapter 566).

5 (X) Any other provision of law imple-  
6 menting a trade agreement.

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

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

16 (AA) Any other provision of customs or  
17 trade law administered by the U.S. Customs  
18 and Border Protection Agency or the U.S. Im-  
19 migration and Customs Enforcement Agency.

20 (5) CUSTOMS REVENUE FUNCTION.—The term  
21 “customs revenue function” has the meaning given  
22 that term in section 415 of the Homeland Security  
23 Act of 2002 (6 U.S.C. 215).

24 (6) PRIVATE SECTOR ENTITY.—The term “pri-  
25 vate sector entity” means—

- 1 (A) an importer;  
2 (B) an exporter;  
3 (C) a forwarder;  
4 (D) an air, sea, or land carrier or shipper;  
5 (E) a contract logistics provider;  
6 (F) a customs broker; or  
7 (G) any other person (other than an em-  
8 ployee of a government) involved in the impor-  
9 tation or exportation of merchandise into or out  
10 of the United States.

11 (7) TRADE ENFORCEMENT.—The term “trade  
12 enforcement” means the enforcement of the customs  
13 and trade laws of the United States.

14 (8) TRADE FACILITATION.—The term “trade  
15 facilitation” refers to policies and activities of the  
16 U.S. Customs and Border Protection Agency with  
17 respect to facilitating the movement of merchandise  
18 into and out of the United States in a manner that  
19 complies with the customs and trade laws of the  
20 United States.

21 (9) TRADE SUPPORT NETWORK.—The term  
22 “Trade Support Network” means the network of  
23 private sector entities that provide input on the de-  
24 velopment of modernization projects of the U.S.  
25 Customs and Border Protection Agency.



1                   **TITLE I—CUSTOMS**  
2                   **ORGANIZATION**  
3       **Subtitle A—Functions Other Than**  
4                   **Investigative Functions**

5       **SEC. 101. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**  
6                   **PROTECTION AGENCY; COMMISSIONER.**

7           (a) IN GENERAL.—The first section of the Act of  
8       March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
9       2071), is amended to read as follows:

10   **“SECTION 1. ESTABLISHMENT OF U.S. CUSTOMS AND BOR-**  
11                   **DER PROTECTION AGENCY; COMMISSIONER.**

12           “(a) ESTABLISHMENT OF U.S. CUSTOMS AND BOR-  
13       DER PROTECTION AGENCY.—There is established in the  
14       Department of Homeland Security the U.S. Customs and  
15       Border Protection Agency.

16           “(b) ESTABLISHMENT OF COMMISSIONER OF U.S.  
17       CUSTOMS AND BORDER PROTECTION.—The head of the  
18       U.S. Customs and Border Protection Agency shall be a  
19       Commissioner of U.S. Customs and Border Protection (in  
20       this Act referred to as the ‘Commissioner’), who shall—

21                   “(1) be appointed by the President, by and with  
22                   the advice and consent of the Senate;

23                   “(2) carry out the duties described in sub-  
24                   section (c); and

1           “(3) report directly to the Secretary of Home-  
2 land Security.

3           “(c) DUTIES.—

4           “(1) IN GENERAL.—The duties of the Commis-  
5 sioner shall include—

6           “(A) coordinating and integrating the se-  
7 curity, trade facilitation, and trade enforcement  
8 functions of the U.S. Customs and Border Pro-  
9 tection Agency;

10           “(B) directing the administration of the  
11 commercial operations as described in para-  
12 graph (2) and the noncommercial operations of  
13 the Agency;

14           “(C) otherwise safeguarding the homeland  
15 security interests of the United States;

16           “(D) ensuring that the overall economic se-  
17 curity of the United States is not diminished by  
18 efforts, activities, and programs aimed at secur-  
19 ing the homeland (as defined in section 2 of the  
20 Homeland Security Act of 2002 (6 U.S.C.  
21 101)); and

22           “(E) carrying out the duties and powers  
23 prescribed by law and such other duties as the  
24 Secretary of Homeland Security or the Sec-

1           retary of the Treasury, as appropriate, may as-  
2           sign.

3           “(2) COMMERCIAL OPERATIONS.—The commer-  
4           cial operations of the U.S. Customs and Border Pro-  
5           tection Agency shall include—

6                   “(A) administering any customs revenue  
7                   function (as defined in section 415 of the  
8                   Homeland Security Act of 2002 (6 U.S.C.  
9                   215));

10                   “(B) coordinating efforts of the Depart-  
11                   ment of Homeland Security with respect to  
12                   trade facilitation and, as appropriate, trade en-  
13                   forcement;

14                   “(C) coordinating with the Director of  
15                   U.S. Immigration and Customs Enforcement  
16                   with respect to—

17                           “(i) investigations relating to trade  
18                           enforcement; and

19                           “(ii) the development and implementa-  
20                           tion of the joint strategic plan on trade fa-  
21                           cilitation and trade enforcement required  
22                           under section 123A of the Customs and  
23                           Trade Act of 1990;

24                   “(D) coordinating, on behalf of the De-  
25                   partment of Homeland Security, efforts among

1 Federal agencies with respect to trade facilita-  
2 tion and, as appropriate, trade enforcement, in-  
3 cluding representing the Department of Home-  
4 land Security in interagency fora addressing  
5 such efforts;

6 “(E) coordinating the efforts of the U.S.  
7 Customs and Border Protection Agency with  
8 the efforts of customs authorities of foreign  
9 countries to facilitate international trade and  
10 enforce customs and trade laws;

11 “(F) collecting, assessing, and dissemi-  
12 nating information as appropriate and in ac-  
13 cordance with law, regarding cargo destined for  
14 the United States, to enhance trade facilitation  
15 and, as appropriate, trade enforcement; and

16 “(G) otherwise advising the Secretary of  
17 Homeland Security with respect to the develop-  
18 ment of policies associated with trade facilita-  
19 tion and, as appropriate, trade enforcement.

20 “(d) CONSULTATIONS.—

21 “(1) RESOURCE NEEDS.—In carrying out the  
22 duties described in subsection (c), the Commissioner  
23 shall consult with the Committee on Finance and  
24 Committee on Appropriations of the Senate and the  
25 Committee on Ways and Means and the Committee

1 on Appropriations of the House of Representatives  
2 on a regular and timely basis regarding the resource  
3 needs of the U.S. Customs and Border Protection  
4 Agency to safeguard the economic security interests  
5 of the United States at land borders and ports of  
6 entry.

7 “(2) INTERNATIONAL NEGOTIATIONS.—The  
8 Commissioner shall consult with the Committee on  
9 Finance of the Senate and the Committee on Ways  
10 and Means of the House of Representatives on a  
11 regular and timely basis regarding the status and  
12 substance of international negotiations relating to  
13 the customs and trade laws of the United States, or  
14 of foreign countries, in which personnel of the U.S.  
15 Customs and Border Protection Agency are partici-  
16 pating.

17 “(3) PRIVATE SECTOR INPUT.—In carrying out  
18 the duties described in subsection (c), the Commis-  
19 sioner shall solicit and consider on a regular basis  
20 input from private sector entities, including the Cus-  
21 toms Operations Advisory Committee, the Trade  
22 Support Network, and other entities affected by the  
23 efforts of the Federal Government relating to trade  
24 facilitation and trade enforcement, with respect to—

1           “(A) the implementation of new or amend-  
2           ed customs and trade laws; and

3           “(B) the development, implementation, or  
4           revision of policies or regulations administered  
5           by the U.S. Customs and Border Protection  
6           Agency.

7           “(e) COMPENSATION.—The Commissioner shall be  
8           compensated at the rate of pay for level III of the Execu-  
9           tive Schedule as provided in section 5314 of title 5, United  
10          States Code.

11          “(f) ABSENCE OR DISABILITY OF COMMISSIONER.—  
12          The Deputy Commissioner for Trade, appointed pursuant  
13          to section 2, shall act as Commissioner during the absence  
14          or disability of the Commissioner or in the event that the  
15          position of Commissioner is vacant.

16          “(g) DEFINITIONS.—In this Act, the terms ‘Customs  
17          Operations Advisory Committee’, ‘customs and trade laws  
18          of the United States’, ‘private sector entity’, ‘trade en-  
19          forcement’, ‘trade facilitation’, and ‘Trade Support Net-  
20          work’ have the meanings given those terms in section 2  
21          of the Trade Facilitation and Trade Enforcement Reau-  
22          thorization Act of 2013.”.

23          (b) ADMINISTRATIVE CONTINUITY.—The Act of  
24          March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.

1 2071 et seq.), is amended by striking section 3 (19 U.S.C.  
2 2073) and all that follows and inserting the following:

3 **“SEC. 3. TRANSFER OF FUNCTIONS, ASSETS, LIABILITIES,**  
4 **AND DUTIES.**

5 “(a) IN GENERAL.—Section 411 of the Homeland  
6 Security Act of 2002 (6 U.S.C. 211) is repealed, and the  
7 functions and associated personnel, assets, and liabilities,  
8 identified under such section 411 on the day before the  
9 date of the enactment of the Trade Facilitation and Trade  
10 Enforcement Reauthorization Act of 2013 are transferred  
11 to the U.S. Customs and Border Protection Agency.

12 “(b) CONTINUATION IN OFFICE.—The individual  
13 serving as Commissioner of Customs in the Department  
14 of Homeland Security on the day before the date of the  
15 enactment of the Trade Facilitation and Trade Enforce-  
16 ment Reauthorization Act of 2013 may serve as the Com-  
17 missioner of the U.S. Customs and Border Protection  
18 Agency established under section 1 until the earlier of—

19 “(1) the date on which that individual is no  
20 longer eligible to serve as Commissioner of Customs;  
21 or

22 “(2) the date on which an individual nominated  
23 by the President to be the Commissioner of U.S.  
24 Customs and Border Protection is confirmed by the  
25 Senate.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) TITLE 5.—Section 5314 of title 5, United  
3 States Code, is amended by striking “Commissioner  
4 of Customs, Department of Homeland Security.”  
5 and inserting “Commissioner of U.S. Customs and  
6 Border Protection, Department of Homeland Secu-  
7 rity.”.

8 (2) TABLE OF CONTENTS.—The table of con-  
9 tents for the Homeland Security Act of 2002 is  
10 amended by striking the item relating to section 411  
11 and inserting the following:

“Sec. 411. [Reserved].”.

12 **SEC. 102. OFFICERS AND EMPLOYEES.**

13 (a) IN GENERAL.—Section 2 of the Act of March 3,  
14 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), is  
15 amended to read as follows:

16 **“SEC. 2. DEPUTY COMMISSIONERS; TRADE ADVOCATE;  
17 OTHER OFFICERS.**

18 “(a) ESTABLISHMENT OF DEPUTY COMMIS-  
19 SIONERS.—

20 “(1) IN GENERAL.—There shall be in the U.S.  
21 Customs and Border Protection Agency established  
22 under section 1 not more than 3 and not fewer than  
23 2 deputy commissioners, each of whom shall report  
24 directly to the Commissioner.



1           “(2) SENIOR EXECUTIVE SERVICE POSITION.—

2           The position of a deputy commissioner established  
3           under paragraph (1) shall be a Senior Executive  
4           Service position (as defined in section 3132(a) of  
5           title 5, United States Code).

6           “(b) DEPUTY COMMISSIONER FOR TRADE.—

7           “(1) IN GENERAL.—One of the deputy commis-  
8           sioners established under subsection (a)(1) shall be  
9           the Deputy Commissioner for Trade.

10          “(2) DUTIES.—The duties of the Deputy Com-  
11          missioner for Trade shall include—

12                   “(A) overseeing the commercial operations  
13                   of the U.S. Customs and Border Protection  
14                   Agency (as described in section 1(c)(2));

15                   “(B) overseeing the Office of Trade estab-  
16                   lished under section 4 and the Office of Inter-  
17                   national Affairs established under section 5;

18                   “(C) overseeing the development and im-  
19                   plementation of all policies and regulations ad-  
20                   ministered by the Agency pursuant to the cus-  
21                   toms and trade laws of the United States;

22                   “(D) coordinating the establishment of  
23                   standards and policies for developing, deliv-  
24                   ering, and evaluating training programs for

1 personnel of the Agency with responsibility for  
2 trade facilitation and trade enforcement;

3 “(E) overseeing the development and im-  
4 plementation of information technology, re-  
5 search, and communication functions, including  
6 automation and modernization strategies, that  
7 support the commercial operations of the Agen-  
8 cy, including the implementation of the Auto-  
9 mated Commercial Environment computer sys-  
10 tem authorized under section 13031(f)(5) of the  
11 Consolidated Omnibus Budget and Reconcili-  
12 ation Act of 1985 (19 U.S.C. 58c(f)(5)); and

13 “(F) overseeing the administration of the  
14 financial management activities of the Agency,  
15 including accounting, budgeting, procurement,  
16 logistics, financial systems, policy, planning,  
17 and audit oversight.

18 “(3) QUALIFICATIONS.—An individual ap-  
19 pointed to be the Deputy Commissioner for Trade  
20 shall have a minimum of 10 years of professional ex-  
21 perience in the operation of the customs and trade  
22 laws of the United States, not less than 3 of which  
23 shall involve either working with or for the private  
24 sector on matters relating to trade facilitation or  
25 trade enforcement.

1           “(4) ABSENCE OR DISABILITY OF DEPUTY COM-  
2           MISSIONER FOR TRADE.—The Assistant Commis-  
3           sioner of the Office of Trade, established under sec-  
4           tion 4, shall act as the Deputy Commissioner for  
5           Trade during the absence or disability of the Deputy  
6           Commissioner for Trade or in the event that the po-  
7           sition of Deputy Commissioner for Trade is vacant.

8           “(c) TRADE ADVOCATE.—

9           “(1) ESTABLISHMENT.—

10           “(A) IN GENERAL.—There shall be in the  
11           office of the Commissioner a Trade Advocate,  
12           who shall be appointed by and report directly to  
13           the Commissioner.

14           “(B) SENIOR EXECUTIVE SERVICE POSI-  
15           TION.—The position of Trade Advocate shall be  
16           a Senior Executive Service position (as defined  
17           in section 3132(a) of title 5, United States  
18           Code).

19           “(2) DUTIES.—The duties of the Trade Advo-  
20           cate shall include—

21           “(A) developing and maintaining strategic  
22           communications with private sector entities and  
23           the public to enhance trade facilitation and  
24           trade enforcement;

1           “(B) serving as the primary liaison be-  
2           tween the U.S. Customs and Border Protection  
3           Agency and private sector entities and the pub-  
4           lic with respect to the Agency’s trade facilita-  
5           tion and trade enforcement functions;

6           “(C) consulting with private sector entities,  
7           including the Customs Operations Advisory  
8           Committee and the Trade Support Network, for  
9           their input with respect to—

10                   “(i) the development, implementation,  
11                   and impact of policies and regulations ad-  
12                   ministered by the Agency;

13                   “(ii) the development of the joint stra-  
14                   tegic plan on trade facilitation and trade  
15                   enforcement required under section 123A  
16                   of the Customs and Trade Act of 1990;

17                   “(iii) the assessment of the effective-  
18                   ness of the trade facilitation and trade en-  
19                   forcement activities of the Agency;

20                   “(iv) trade modernization activities,  
21                   including the development and implementa-  
22                   tion of the Automated Commercial Envi-  
23                   ronment computer system authorized  
24                   under section 13031(f)(5) of the Consoli-  
25                   dated Omnibus Budget and Reconciliation

1 Act of 1985 (19 U.S.C. 58c(f)(5)) and  
2 support for the establishment of the Inter-  
3 national Trade Data System under the  
4 oversight of the Department of the Treas-  
5 ury pursuant to section 411(d) of the Tar-  
6 iff Act of 1930 (19 U.S.C. 1411(d));

7 “(v) the identification of private sec-  
8 tor resources and capabilities that will sup-  
9 plement the trade facilitation and trade en-  
10 forcement activities of the Agency;

11 “(D) advising the Commissioner with re-  
12 spect to the consultations described in subpara-  
13 graph (C);

14 “(E) promoting existing public-private  
15 partnerships and developing new public-private  
16 partnerships to enhance the trade facilitation  
17 and trade enforcement activities of the Agency;  
18 and

19 “(F) otherwise consulting with private sec-  
20 tor entities and the public as directed by the  
21 Commissioner or by law.

22 “(3) QUALIFICATIONS.—An individual ap-  
23 pointed to be the Trade Advocate shall have a min-  
24 imum of 10 years of professional experience working  
25 with the customs and trade laws of the United

1 States, not less than 3 of which shall have been  
2 spent working in the private sector.

3 “(4) ELIMINATION OF OFFICE OF TRADE RELA-  
4 TIONS.—

5 “(A) TRANSFER.—Not later than 30 days  
6 after the date of the enactment of the Trade  
7 Facilitation and Trade Enforcement Reauthor-  
8 ization Act of 2013, the Secretary of Homeland  
9 Security shall transfer the assets, functions,  
10 personnel, and liabilities of the Office of Trade  
11 Relations of the U.S. Customs and Border Pro-  
12 tection Agency to the Trade Advocate estab-  
13 lished under paragraph (1).

14 “(B) ELIMINATION.—Not later than 30  
15 days after the date of the enactment of the  
16 Trade Facilitation and Trade Enforcement Re-  
17 uthorization Act of 2013, the Office of Trade  
18 Relations shall be abolished.

19 “(C) LIMITATION ON FUNDS.—No funds  
20 appropriated to the Agency or the Department  
21 of Homeland Security may be used to transfer  
22 the assets, functions, personnel, and liabilities  
23 of the Office of Trade Relations to an office or  
24 official other than the Trade Advocate estab-  
25 lished under paragraph (1).

1       “(d) OTHER OFFICERS.—The Commissioner may ap-  
 2 point such other officers as are necessary to manage the  
 3 individual offices within the U.S. Customs and Border  
 4 Protection Agency. Any appointment of personnel under  
 5 this subsection shall be subject to the provisions of the  
 6 civil service laws, and the salaries shall be fixed in accord-  
 7 ance with chapter 51 and subchapter III of chapter 53  
 8 of title 5, United States Code.”.

9       (b) TRADE OFFICES AND FUNCTIONS.—The Act of  
 10 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
 11 2071 et seq.), is amended by adding at the end the fol-  
 12 lowing:

13       **“SEC. 4. OFFICE OF TRADE.**

14       “(a) ESTABLISHMENT OF OFFICE OF TRADE.—  
 15 There shall be in the U.S. Customs and Border Protection  
 16 Agency an Office of Trade, which shall be headed by an  
 17 Assistant Commissioner for Trade.

18       “(b) TRANSFER OF ASSETS, FUNCTION, AND PER-  
 19 SONNEL; ELIMINATION OF OFFICES.—

20               “(1) OFFICE OF INTERNATIONAL TRADE.—

21                       “(A) TRANSFER.—Not later than 30 days  
 22 after the date of the enactment of the Trade  
 23 Facilitation and Trade Enforcement Reauthor-  
 24 ization Act of 2013, the Secretary of Homeland  
 25 Security shall transfer the assets, functions,

1 personnel, and liabilities of the Office of Inter-  
2 national Trade to the Office of Trade estab-  
3 lished under subsection (a).

4 “(B) ELIMINATION.—Not later than 30  
5 days after the date of the enactment of the  
6 Trade Facilitation and Trade Enforcement Re-  
7 authorization Act of 2013, the Office of Inter-  
8 national Trade shall be abolished.

9 “(C) LIMITATION ON FUNDS.—No funds  
10 appropriated to the U.S. Customs and Border  
11 Protection Agency or the Department of Home-  
12 land Security may be used to transfer the as-  
13 sets, functions, personnel, and liabilities of the  
14 Office of International Trade to an office other  
15 than the Office of Trade established under sub-  
16 section (a).

17 “(D) OFFICE OF INTERNATIONAL TRADE  
18 DEFINED.—In this paragraph, the term ‘Office  
19 of International Trade’ means the Office of  
20 International Trade established under sub-  
21 section (d) of section 2 of this Act, as added by  
22 section 402 of the Security and Accountability  
23 for Every Port Act of 2006 (Public Law 109–  
24 347; 120 Stat. 1924), and as in effect on the  
25 day before the date of the enactment of the



1 Trade Facilitation and Trade Enforcement Re-  
2 authorization Act of 2013.

3 “(2) OTHER TRANSFERS.—

4 “(A) IN GENERAL.—The Commissioner is  
5 authorized to transfer any other assets, func-  
6 tions, or personnel within the U.S. Customs  
7 and Border Protection Agency to the Office of  
8 Trade established under subsection (a).

9 “(B) CONGRESSIONAL NOTIFICATION.—  
10 Not less than 90 days prior to the transfer of  
11 assets, functions, or personnel under subpara-  
12 graph (A), the Commissioner shall notify the  
13 Committee on Finance of the Senate and the  
14 Committee on Ways and Means of the House of  
15 Representatives of the specific assets, functions,  
16 or personnel to be transferred, and the reason  
17 for the transfer.

18 “(c) ASSISTANT COMMISSIONER FOR TRADE.—

19 “(1) APPOINTMENT.—

20 “(A) IN GENERAL.—The Commissioner  
21 shall appoint an Assistant Commissioner for  
22 Trade who shall—

23 “(i) be the head of the Office of  
24 Trade; and

1                   “(ii) report to the Deputy Commis-  
2                   sioner for Trade of the U.S. Customs and  
3                   Border Protection Agency.

4                   “(B) SENIOR EXECUTIVE SERVICE POSI-  
5                   TION.—The position of Assistant Commissioner  
6                   for Trade shall be a Senior Executive Service  
7                   position (as defined in section 3132(a) of title  
8                   5, United States Code).

9                   “(2) QUALIFICATIONS.—An individual ap-  
10                  pointed to be the Assistant Commissioner for Trade  
11                  shall have a minimum of 10 years of professional ex-  
12                  perience in the operation of the customs and trade  
13                  laws of the United States, not less than 3 of which  
14                  shall involve either working with or for the private  
15                  sector on matters relating to trade facilitation or  
16                  trade enforcement.

17                  “(3) DUTIES.—The duties of the Assistant  
18                  Commissioner for Trade shall include—

19                         “(A) directing the development and imple-  
20                         mentation, pursuant to the customs and trade  
21                         laws of the United States, of policies and regu-  
22                         lations administered by the U.S. Customs and  
23                         Border Protection Agency;

24                         “(B) advising the Deputy Commissioner  
25                         for Trade with respect to the impact on trade

1 facilitation and trade enforcement of any policy  
2 or regulation otherwise proposed or adminis-  
3 tered by the Agency;

4 “(C) cooperating with the Assistant Com-  
5 missioner for Field Operations with respect to  
6 the trade facilitation and trade enforcement ac-  
7 tivities of the Agency carried out at the land  
8 borders and ports of entry of the United States;

9 “(D) directing the development and imple-  
10 mentation of matters relating to the priority  
11 trade issues identified by the Commissioner in  
12 the joint strategic plan on trade facilitation and  
13 trade enforcement required under section 123A  
14 of the Customs and Trade Act of 1990;

15 “(E) otherwise advising the Commissioner  
16 with respect to the development and implemen-  
17 tation of the joint strategic plan;

18 “(F) directing the trade enforcement ac-  
19 tivities of the Agency, including the activities of  
20 the National Targeting and Analysis Groups es-  
21 tablished under section 211 of the Trade Facili-  
22 tation and Trade Enforcement Reauthorization  
23 Act of 2013;

24 “(G) overseeing the trade modernization  
25 activities of the Agency, including the develop-

1           ment and implementation of the Automated  
2           Commercial Environment computer system au-  
3           thorized under section 13031(f)(5) of the Con-  
4           solidated Omnibus Budget and Reconciliation  
5           Act of 1985 (19 U.S.C. 58c(f)(5)) and support  
6           for the establishment of the International Trade  
7           Data System under the oversight of the Depart-  
8           ment of the Treasury pursuant to section  
9           411(d) of the Tariff Act of 1930 (19 U.S.C.  
10          1411(d));

11           “(H) directing the administration of cus-  
12          toms revenue functions as otherwise provided  
13          by law or delegated by the Commissioner; and

14           “(I) preparing an annual report to be sub-  
15          mitted to the Committee on Finance of the Sen-  
16          ate and the Committee on Ways and Means of  
17          the House of Representatives not later than  
18          March 1 of each calendar year that includes—

19                   “(i) a summary of the changes to cus-  
20                   toms policies and regulations adopted by  
21                   the Agency during the preceding calendar  
22                   year; and

23                   “(ii) a description of the public vet-  
24                   ting and interagency consultation that oc-  
25                   curred with respect to each such change.

1           “(4) CONTINUATION IN OFFICE.—The indi-  
 2           vidual serving as the Assistant Commissioner of the  
 3           Office of International Trade on the day before the  
 4           date of the enactment of the Trade Facilitation and  
 5           Trade Enforcement Reauthorization Act of 2013  
 6           may serve as the Assistant Commissioner for Trade  
 7           on or after such date of enactment, at the discretion  
 8           of the Commissioner.

9   **“SEC. 5. OFFICE OF INTERNATIONAL AFFAIRS.**

10          “(a) ESTABLISHMENT OF OFFICE OF INTER-  
 11          NATIONAL AFFAIRS.—There shall be in the U.S. Customs  
 12          and Border Protection Agency an Office of International  
 13          Affairs, which shall be headed by an Assistant Commis-  
 14          sioner for International Affairs.

15          “(b) ASSISTANT COMMISSIONER FOR INTER-  
 16          NATIONAL AFFAIRS.—

17                  “(1) APPOINTMENT.—

18                          “(A) IN GENERAL.—The Commissioner  
 19                          shall appoint an Assistant Commissioner for  
 20                          International Affairs who shall—

21                                  “(i) be the head of the Office of Inter-  
 22                                  national Affairs; and

23                                  “(ii) report to the Deputy Commis-  
 24                                  sioner for Trade of the U.S. Customs and  
 25                                  Border Protection Agency.

1           “(B) SENIOR EXECUTIVE SERVICE POSI-  
2           TION.—The position of Assistant Commissioner  
3           for International Affairs shall be a Senior Exec-  
4           utive Service position (as defined in section  
5           3132(a) of title 5, United States Code).

6           “(2) QUALIFICATIONS.—An individual ap-  
7           pointed to be the Assistant Commissioner for Inter-  
8           national Affairs shall have a minimum of 10 years  
9           of professional experience in the operation of the  
10          customs and trade laws of the United States, not  
11          less than 3 of which shall involve either working  
12          with or for the private sector on matters relating to  
13          trade facilitation or trade enforcement.

14          “(3) DUTIES.—The duties of the Assistant  
15          Commissioner for International Affairs shall in-  
16          clude—

17                 “(A) coordinating the initiatives, programs,  
18                 and activities of the U.S. Customs and Border  
19                 Protection Agency in foreign countries, includ-  
20                 ing employees of the Agency in foreign coun-  
21                 tries;

22                 “(B) advising the Commissioner with re-  
23                 spect to matters arising in the World Customs  
24                 Organization and, if appropriate, the World

1 Trade Organization and other international or-  
2 ganizations;

3 “(C) ensuring that the policies and regula-  
4 tions of the Agency are consistent with the obli-  
5 gations of the United States pursuant to inter-  
6 national agreements;

7 “(D) coordinating with other Federal agen-  
8 cies on international efforts to enhance trade  
9 facilitation and trade enforcement by the Agen-  
10 cy;

11 “(E) coordinating with the customs au-  
12 thorities of foreign countries with respect to  
13 trade facilitation and, as appropriate, trade en-  
14 forcement; and

15 “(F) providing training and capacity build-  
16 ing to customs authorities of foreign countries.

17 “(4) CONTINUATION IN OFFICE.—The indi-  
18 vidual serving as the Assistant Commissioner of the  
19 Office of International Affairs on the day before the  
20 date of the enactment of the Trade Facilitation and  
21 Trade Enforcement Reauthorization Act of 2013  
22 may serve as the Assistant Commissioner for Inter-  
23 national Affairs on or after such date of enactment,  
24 at the discretion of the Commissioner.

1 **“SEC. 6. COORDINATION BETWEEN THE ASSISTANT COM-**  
2 **MISSIONER FOR TRADE AND THE ASSISTANT**  
3 **COMMISSIONER FOR FIELD OPERATIONS.**

4 “To advance the security, trade facilitation, and  
5 trade enforcement missions of the U.S. Customs and Bor-  
6 der Protection Agency, the Commissioner shall ensure that  
7 the Assistant Commissioner for Trade and the Assistant  
8 Commissioner for Field Operations of the Agency work to-  
9 gether on—

10 “(1) trade facilitation and trade enforcement  
11 activities at United States ports of entry;

12 “(2) operational training of personnel within  
13 the Office of Field Operations at United States  
14 ports of entry to administer trade facilitation and  
15 trade enforcement activities;

16 “(3) evaluating the operational effectiveness of  
17 the trade facilitation and trade enforcement activi-  
18 ties at United States ports of entry by personnel of  
19 the Office of Field Operations;

20 “(4) cooperating with the Trade Advocate es-  
21 tablished under section 2(c) to ensure that any in-  
22 formation received from private sector entities re-  
23 garding the trade facilitation and trade enforcement  
24 activities of the Agency is considered;

25 “(5) ensuring the uniform administration and  
26 implementation among United States ports of entry



1 of new or revised customs and trade laws, policies,  
2 or regulations related to the trade facilitation and  
3 trade enforcement activities of the Agency;

4 “(6) implementing the operational provisions of  
5 the joint strategic plan on trade facilitation and  
6 trade enforcement required under section 123A of  
7 the Customs and Trade Act of 1990 related to the  
8 trade facilitation and trade enforcement activities of  
9 the Agency at United States ports of entry;

10 “(7) in cooperation with the Office of Inter-  
11 national Affairs established under section 5, ensur-  
12 ing that trade facilitation and trade enforcement ac-  
13 tivities comply with obligations of the United States  
14 pursuant to international agreements;

15 “(8) ensuring the prompt collection of available  
16 data regarding cargo that violates the customs and  
17 trade laws of the United States, and the prompt  
18 issuance of Trade Alerts pursuant to section 211 of  
19 the Trade Facilitation and Trade Enforcement Re-  
20 authorization Act of 2013; and

21 “(9) otherwise overseeing the trade facilitation  
22 and trade enforcement activities of personnel within  
23 the Office of Field Operations at United States  
24 ports of entry.

1 **“SEC. 7. ESTABLISHMENT OF TRADE FACILITATION AND**  
2 **TRADE ENFORCEMENT DIVISION IN OFFICE**  
3 **OF FIELD OPERATIONS; DIVISION PER-**  
4 **SONNEL.**

5 “(a) **ESTABLISHMENT.**—There is established in the  
6 Office of Field Operations of the U.S. Customs and Bor-  
7 der Protection Agency a Trade Facilitation and Trade En-  
8 forcement Division.

9 “(b) **DIVISION PERSONNEL.**—

10 “(1) **HEADQUARTERS PERSONNEL.**—The Com-  
11 missioner shall assign sufficient personnel to operate  
12 the Trade Facilitation and Trade Enforcement Divi-  
13 sion in the Office of Field Operations established  
14 under subsection (a).

15 “(2) **COMMERCIAL ENFORCEMENT OFFICERS.**—

16 “(A) **IN GENERAL.**—Not later than 180  
17 days after the date of the enactment of the  
18 Trade Facilitation and Trade Enforcement Re-  
19 authorization Act of 2013, the Commissioner  
20 shall designate and dedicate within the Office of  
21 Field Operations not fewer than 40 commercial  
22 enforcement officers.

23 “(B) **ASSIGNMENT.**—The Commissioner  
24 shall assign the commercial enforcement officers  
25 authorized under this subsection among the 40  
26 United States ports of entry that experienced

1 the highest volume of trade during fiscal year  
2 2013.

3 “(C) DUTIES.—The duties of a commercial  
4 enforcement officer shall be—

5 “(i) to supervise all trade enforcement  
6 activities of personnel of the Office of Field  
7 Operations at the port of entry to which  
8 the commercial enforcement officer has  
9 been assigned;

10 “(ii) to coordinate with the Office of  
11 Trade all trade enforcement activities at  
12 that port of entry;

13 “(iii) to direct the training of per-  
14 sonnel at that port of entry to effectuate  
15 the trade enforcement activities of the Of-  
16 fice of Field Operations; and

17 “(iv) to otherwise conduct trade en-  
18 forcement activities at that port of entry.

19 **“SEC. 8. CUSTOMS FACILITATION AND ENFORCEMENT**  
20 **INTERAGENCY COMMITTEE.**

21 “(a) ESTABLISHMENT.—The Commissioner shall es-  
22 tablish a Customs Facilitation and Enforcement Inter-  
23 agency Committee (in this section referred to as the ‘Com-  
24 mittee’) to improve coordination and collaboration among

1 Federal agencies with respect to trade facilitation and  
2 trade enforcement.

3 “(b) FUNCTIONS.—The functions of the Committee  
4 shall include—

5 “(1) advising the Commissioner with respect to  
6 policies or regulations of the U.S. Customs and Bor-  
7 der Protection Agency that may significantly af-  
8 fect—

9 “(A) the trade facilitation and trade en-  
10 forcement missions of the Agency; or

11 “(B) the international trade policy, trade  
12 commitments, or trade competitiveness of the  
13 United States;

14 “(2) consulting with the Commissioner with re-  
15 spect to the development and implementation of poli-  
16 cies of agencies that are represented on the Com-  
17 mittee that significantly affect the trade facilitation  
18 and trade enforcement missions of the Agency;

19 “(3) reviewing recommendations of and ad-  
20 dressing concerns identified by the Customs Facilita-  
21 tion and Enforcement Review Group established  
22 under subsection (d); and

23 “(4) such other functions as are agreed on by  
24 the Commissioner and the members of the Com-  
25 mittee.

1       “(c) MEMBERSHIP.—The members of the Committee  
2 shall be the following:

3           “(1) The Commissioner.

4           “(2) The Deputy Commissioner for Trade of  
5 the U.S. Customs and Border Protection Agency.

6           “(3) The Assistant Secretary for Tax Policy of  
7 the Department of the Treasury.

8           “(4) The Administrator of the Animal and  
9 Plant Health Inspection Service of the Department  
10 of Agriculture.

11          “(5) The Director of the Bureau of Alcohol, To-  
12 bacco, Firearms, and Explosives of the Department  
13 of Justice.

14          “(6) The Chairman of the Consumer Product  
15 Safety Commission.

16          “(7) The Administrator of the Environmental  
17 Protection Agency.

18          “(8) The Commissioner of Food and Drugs of  
19 the Department of Health and Human Services.

20          “(9) The Administrator of the Food Safety and  
21 Inspection Service of the Department of Agriculture.

22          “(10) The Director of U.S. Immigration and  
23 Customs Enforcement of the Department of Home-  
24 land Security.

1           “(11) The Administrator of the National High-  
2           way Traffic Safety Administration of the Depart-  
3           ment of Transportation.

4           “(12) The Assistant Administrator for Fish-  
5           eries of the National Oceanic and Atmospheric Ad-  
6           ministration of the Department of Commerce.

7           “(13) The Under Secretary for International  
8           Trade of the Department of Commerce.

9           “(14) A Deputy United States Trade Rep-  
10          resentative.

11          “(15) Senior officials of such other Federal  
12          agencies as the Commissioner determines appro-  
13          priate.

14          “(d) CUSTOMS FACILITATION AND ENFORCEMENT  
15          REVIEW GROUP.—

16                 “(1) ESTABLISHMENT.—The Committee shall  
17                 establish a Customs Facilitation and Enforcement  
18                 Review Group (in this subsection referred to as the  
19                 ‘Review Group’) as a subordinate body of the Com-  
20                 mittee.

21                 “(2) MEMBERSHIP.—The members of the Re-  
22                 view Group shall be—

23                         “(A) the Deputy Commissioner for Trade  
24                         of the U.S. Customs and Border Protection  
25                         Agency or another senior official of the Agency

1 designated by the Commissioner, who shall  
2 serve as chairperson of the Review Group; and

3 “(B) a senior official of each agency rep-  
4 resented on the Committee.

5 “(3) MEETINGS.—The Deputy Commissioner  
6 for Trade shall convene the Review Group as needed  
7 to carry out the functions of the Review Group  
8 under paragraph (4) and any other duties assigned  
9 to the Review Group by the Committee.

10 “(4) FUNCTIONS.—The functions of the Review  
11 Group shall include—

12 “(A) reviewing, and advising the Com-  
13 mittee with respect to, proposed policies, proce-  
14 dures, regulations, and activities of the U.S.  
15 Customs and Border Protection Agency that  
16 may significantly affect—

17 “(i) the trade facilitation and trade  
18 enforcement missions of the Agency; or

19 “(ii) the international trade policy,  
20 trade commitments, or trade competitive-  
21 ness of the United States;

22 “(B) advising the Committee with respect  
23 to the development and implementation of poli-  
24 cies, procedures, regulations, and activities of  
25 agencies represented on the Committee that sig-

1 significantly affect the trade facilitation and trade  
2 enforcement missions of the Agency; and

3 “(C) such other functions as the Com-  
4 mittee may direct.”.

5 (e) CONFORMING AMENDMENT.—Section 5315 of  
6 title 5, United States Code, is amended by adding at the  
7 end the following:

8 “Deputy Commissioners of U.S. Customs and  
9 Border Protection, Department of Homeland Secu-  
10 rity (3).”.

11 (d) CONFORMING REPEAL.—Section 650 of the Tar-  
12 iff Act of 1930 (19 U.S.C. 1650) is repealed.

13 **SEC. 103. SEPARATE BUDGET REQUESTS FOR U.S. CUSTOMS**  
14 **AND BORDER PROTECTION AGENCY.**

15 (a) IN GENERAL.—The President shall include in  
16 each budget transmitted to Congress under section 1105  
17 of title 31, United States Code, two separate budget re-  
18 quests for the U.S. Customs and Border Protection Agen-  
19 cy—

20 (1) one for the commercial operations of the  
21 Agency; and

22 (2) one for the noncommercial operations of the  
23 Agency.

24 (b) REPEAL.—



1           (1) IN GENERAL.—Section 414 of the Home-  
2           land Security Act of 2002 (6 U.S.C. 214) is re-  
3           pealed.

4           (2) CONFORMING AMENDMENT.—The table of  
5           contents for the Homeland Security Act of 2002 is  
6           amended by striking the item relating to section 414  
7           and inserting the following:

“Sec. 414. [Reserved].”.

8   **SEC. 104. REVOLVING FUND.**

9           The matter under the heading “REVOLVING FUND,  
10          BUREAU OF CUSTOMS” in the Treasury and Post Office  
11          Departments Appropriation Act, 1950 (63 Stat. 360,  
12          chapter 286; 19 U.S.C. 2074), is amended by striking  
13          “United States Customs Service” and inserting “U.S.  
14          Customs and Border Protection Agency”.

15   **SEC. 105. ADVANCES IN FOREIGN COUNTRIES.**

16          The matter under the heading “BUREAU OF CUS-  
17          TOMS” in the Treasury Department Appropriation Act  
18          1940 (53 Stat. 660, chapter 115; 19 U.S.C. 2076) is  
19          amended in the last proviso by striking “Bureau of Cus-  
20          toms” and inserting “U.S. Customs and Border Protec-  
21          tion Agency or the U.S. Immigration and Customs En-  
22          forcement Agency”.

1 **SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS**  
2 **PROVISIONS.**

3 Section 2 of the Act of March 28, 1928 (45 Stat.  
4 374, chapter 266; 19 U.S.C. 2077), is amended to read  
5 as follows:

6 **“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-**  
7 **VISIONS.**

8 “The Commissioner of U.S. Customs and Border  
9 Protection and the Director of U.S. Immigration and Cus-  
10 toms Enforcement, with the approval of the Secretary of  
11 Homeland Security and the Secretary of the Treasury, are  
12 each authorized to direct the advance of funds by the Fis-  
13 cal Service of the Department of the Treasury in connec-  
14 tion with the enforcement of the customs and trade laws  
15 of the United States (as defined in section 2 of the Trade  
16 Facilitation and Trade Enforcement Reauthorization Act  
17 of 2013).”.

18 **SEC. 107. CERTIFICATION OF REASON FOR ADVANCE.**

19 Section 3 of the Act of March 28, 1928 (45 Stat.  
20 374, chapter 266; 19 U.S.C. 2078), is amended by strik-  
21 ing “Commissioner of Customs” and inserting “Commis-  
22 sioner of U.S. Customs and Border Protection or the Di-  
23 rector of U.S. Immigration and Customs Enforcement”.

1 **SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**  
2 **REIMBURSEMENT.**

3 Section 4 of the Act of March 28, 1928 (45 Stat.  
4 374, chapter 266; 19 U.S.C. 2079), is amended to read  
5 as follows:

6 **“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**  
7 **REIMBURSEMENT.**

8 “The provisions of this Act shall not affect payments  
9 made for the U.S. Customs and Border Protection Agency  
10 or the U.S. Immigration and Customs Enforcement Agen-  
11 cy in foreign countries, or the right of any officer or em-  
12 ployee of either such Agency to claim reimbursement for  
13 personal funds expended in connection with the enforce-  
14 ment of the customs and trade laws of the United States  
15 (as defined in section 2 of the Trade Facilitation and  
16 Trade Enforcement Reauthorization Act of 2013).”.

17 **SEC. 109. CUSTOMS ADMINISTRATION.**

18 Section 113 of the Customs and Trade Act of 1990  
19 (19 U.S.C. 2082) is amended to read as follows:

20 **“SEC. 113. CUSTOMS ADMINISTRATION.**

21 “(a) IN GENERAL.—The Commissioner of U.S. Cus-  
22 toms and Border Protection and the Director of U.S. Im-  
23 migration and Customs Enforcement each shall—

24 “(1) develop and implement accounting systems  
25 that accurately determine and report the allocation  
26 of the personnel and other resources of the U.S.

1 Customs and Border Protection Agency and the  
2 U.S. Immigration and Customs Enforcement Agency  
3 among the various operational functions of each  
4 Agency, such as merchandise processing, passenger  
5 processing, drug enforcement, trade facilitation, and  
6 trade enforcement; and

7 “(2) develop and implement periodic labor dis-  
8 tribution surveys of major workforce activities within  
9 the U.S. Customs and Border Protection Agency  
10 and the U.S. Immigration and Customs Enforce-  
11 ment Agency to determine the cost of the various  
12 operational functions of each Agency and the extent  
13 to which the costs of one Agency are covered by the  
14 other Agency.

15 “(b) SURVEY REPORTS.—Not later than one year  
16 after the date of the enactment of the Trade Facilitation  
17 and Trade Enforcement Reauthorization Act of 2013, the  
18 Commissioner of U.S. Customs and Border Protection and  
19 the Director of U.S. Immigration and Customs Enforce-  
20 ment shall each submit to the Committee on Finance of  
21 the Senate and the Committee on Ways and Means of the  
22 House of Representatives a report on the results of the  
23 first surveys implemented under subsection (a)(2).”.

1 **SEC. 110. PERSONNEL.**

2 (a) IN GENERAL.—Subsection (a) of section 401 of  
3 the Security and Accountability for Every Port Act of  
4 2006 (6 U.S.C. 115) is amended to read as follows:

5 “(a) DIRECTOR OF TRADE POLICY.—

6 “(1) IN GENERAL.—There shall be in the Office  
7 of Policy of the Department of Homeland Security  
8 a Director of Trade Policy, who shall—

9 “(A) coordinate with the Commissioner of  
10 U.S. Customs and Border Protection and the  
11 Director of U.S. Immigration and Customs En-  
12 forcement to ensure that the economic security  
13 interests of the United States associated with  
14 international trade, including trade facilitation  
15 and trade enforcement (as defined in section 2  
16 of the Trade Facilitation and Trade Enforce-  
17 ment Reauthorization Act of 2013), are consid-  
18 ered in the development and implementation of  
19 policies within the Department of Homeland  
20 Security;

21 “(B) engage with law enforcement and  
22 customs authorities of foreign countries and  
23 private sector entities to build on existing ef-  
24 forts to develop, strengthen, and implement  
25 international standards for securing key sys-

1           tems of the global economy and more effectively  
2           facilitating trade; and

3           “(C) submit to the Committee on Finance  
4           of the Senate and the Committee on Ways and  
5           Means of the House of Representatives, not  
6           later than December 15 of each year, a report  
7           describing how the Department of Homeland  
8           Security accounted for the economic security in-  
9           terests of the United States associated with  
10          international trade, including trade facilitation  
11          and trade enforcement, in developing and imple-  
12          menting policies during the preceding fiscal  
13          year.

14          “(2) QUALIFICATIONS.—The Director of Trade  
15          Policy shall have significant experience in the devel-  
16          opment, operation, or administration of the customs  
17          and trade laws of the United States (as defined in  
18          section 2 of the Trade Facilitation and Trade En-  
19          forcement Reauthorization Act of 2013).”.

20          (b) NEW PERSONNEL.—Subsection (c) of section 412  
21          of the Homeland Security Act of 2002 (6 U.S.C. 212(c))  
22          is amended to read as follows:

23          “(c) NEW PERSONNEL.—Not later than 90 days  
24          after the date of the enactment of the Trade Facilitation  
25          and Trade Enforcement Reauthorization Act of 2013, the

1 Secretary of the Treasury shall designate and dedicate not  
2 fewer than 5 and not more than 20 full-time equivalent  
3 personnel to work exclusively with the Deputy Assistant  
4 Secretary of the Treasury for Tax, Trade, and Tariff Pol-  
5 icy in the performance and oversight of customs revenue  
6 functions.”.

7 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—Section 301 of the Customs Pro-  
9 cedural Reform and Simplification Act of 1978 (19 U.S.C.  
10 2075) is amended—

11 (1) by redesignating subsection (h) as sub-  
12 section (i); and

13 (2) by striking subsections (a) through (g) and  
14 inserting the following:

15 “(a) IN GENERAL.—

16 “(1) FISCAL YEAR 2014 AND EACH FISCAL YEAR  
17 THEREAFTER.—For fiscal year 2014 and each fiscal  
18 year thereafter, there are authorized to be appro-  
19 priated to the Department of Homeland Security for  
20 the U.S. Customs and Border Protection Agency  
21 only such sums as may hereafter be authorized by  
22 law.

23 “(2) REQUIREMENT FOR AUTHORIZATION.—

24 The authorization of appropriations for the U.S.  
25 Customs and Border Protection Agency for fiscal

1 year 2014 and each fiscal year thereafter shall speci-  
2 fy—

3 “(A) the amount authorized for the fiscal  
4 year for the salaries and expenses of the Agency  
5 in conducting commercial operations (as de-  
6 scribed in section 1(c)(2) of the Act of March  
7 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
8 2071)); and

9 “(B) the amount authorized for the fiscal  
10 year for the salaries and expenses of the Agency  
11 for noncommercial operations.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated for the salaries and ex-  
14 penses of the U.S. Customs and Border Protection Agency  
15 that are incurred in commercial operations such sums as  
16 are necessary for fiscal years 2014 through 2018.

17 “(c) CUSTOMS USER FEE ACCOUNT.—The monies  
18 authorized to be appropriated pursuant to subsection (b)  
19 for any fiscal year, except for such sums as may be nec-  
20 essary for the salaries and expenses of the U.S. Customs  
21 and Border Protection Agency that are incurred in con-  
22 nection with the processing of merchandise that is exempt  
23 from the fees imposed pursuant to paragraphs (9) and  
24 (10) of section 13031(a) of the Consolidated Omnibus  
25 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)),



1 shall be appropriated from the Customs User Fee Ac-  
2 count.

3 “(d) MANDATORY 10-DAY DEFERMENT.—No part of  
4 the funds appropriated pursuant to subsection (a) for any  
5 fiscal year may be used to provide less time for the collec-  
6 tion of estimated duties than the 10-day deferment proce-  
7 dure in effect on January 1, 1981.

8 “(e) OVERTIME PAY LIMITATIONS; WAIVER.—No  
9 part of the funds appropriated pursuant to subsection (a)  
10 for any fiscal year may be used for administrative ex-  
11 penses to pay any employee of the U.S. Customs and Bor-  
12 der Protection Agency overtime pay in an amount exceed-  
13 ing \$35,000 unless the Secretary of Homeland Security,  
14 or the designee of the Secretary, determines on an indi-  
15 vidual basis that payment of overtime pay to such em-  
16 ployee in an amount exceeding \$35,000 is necessary for  
17 national security purposes, to prevent excessive costs, or  
18 to meet emergency requirements of the Agency.

19 “(f) PAY COMPARABILITY AUTHORIZATION.—For fis-  
20 cal year 2014 and each fiscal year thereafter, there are  
21 authorized to be appropriated to the Department of  
22 Homeland Security for salaries of the U.S. Customs and  
23 Border Protection Agency such additional sums as may  
24 be provided by law to reflect pay rate changes made in

1 accordance with subchapter I of chapter 53 of title 5,  
2 United States Code.

3       “(g) USE OF SAVINGS RESULTING FROM ADMINIS-  
4 TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-  
5 penses result from the consolidation of administrative  
6 functions within the U.S. Customs and Border Protection  
7 Agency, the Commissioner of U.S. Customs and Border  
8 Protection shall apply the savings, to the extent the sav-  
9 ings are not needed to meet emergency requirements of  
10 the Agency, to strengthening the commercial operations  
11 of the Agency.

12       “(h) ALLOCATION OF RESOURCES; REPORT TO CON-  
13 GRESSIONAL COMMITTEES.—The Commissioner of U.S.  
14 Customs and Border Protection shall notify the Com-  
15 mittee on Finance of the Senate and the Committee on  
16 Ways and Means of the House of Representatives at least  
17 180 days prior to taking any action that would—

18               “(1) result in any significant reduction in force  
19 of employees of the U.S. Customs and Border Pro-  
20 tection Agency other than by means of attrition;

21               “(2) result in any significant reduction in hours  
22 of operation or services rendered at any office of the  
23 Agency or any United States port of entry;

24               “(3) eliminate or relocate any office of the  
25 Agency;

1           “(4) eliminate any United States port of entry;

2           or

3           “(5) significantly reduce the number of employ-  
4           ees assigned to any office or any function of the  
5           Agency.”.

6           (b) RESOURCE OPTIMIZATION MODEL.—Subsection  
7 (i) of section 301 of the Customs Procedural Reform and  
8 Simplification Act of 1978, as redesignated by subsection  
9 (a), is amended by striking “Resource Allocation Model”  
10 each place it appears in the text and in the heading and  
11 inserting “Resource Optimization Model”.

12           (c) CONFORMING AMENDMENTS.—

13           (1) IN GENERAL.—Subsection (c) of section 5  
14 of the Act of February 13, 1911 (36 Stat. 901,  
15 chapter 46; 19 U.S.C. 267), is amended to read as  
16 follows:

17           “(c) LIMITATIONS.—

18           “(1) FISCAL YEAR CAP.—The aggregate of  
19 overtime pay under subsection (a) (including com-  
20 muting compensation under subsection (a)(2)(B))  
21 and premium pay under subsection (b) that an em-  
22 ployee of the U.S. Customs and Border Protection  
23 Agency may be paid in any fiscal year may not ex-  
24 ceed \$35,000 unless the Secretary of Homeland Se-  
25 curity, or the designee of the Secretary, determines

1 on an individual basis that payment of overtime pay  
2 to such employee in an amount exceeding \$35,000 is  
3 necessary for national security purposes, to prevent  
4 excessive costs, or to meet emergency requirements  
5 of the Agency.

6 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-  
7 TION.—An employee of the Agency who receives  
8 overtime pay under subsection (a), or premium pay  
9 under subsection (b) for time worked, may not re-  
10 ceive pay or other compensation for that work under  
11 any other provision of law.”

12 (2) BASIC PAY.—Section 8331(3)(G) of title 5,  
13 United States Code, is amended—

14 (A) by striking “a customs officer” and all  
15 that follows through “1911)” and inserting “an  
16 employee of the U.S. Customs and Border Pro-  
17 tection Agency”;

18 (B) by striking “subsection (a) of such sec-  
19 tion 5” and inserting “subsection (c) of section  
20 5 of the Act of February 13, 1911 (36 Stat.  
21 901, chapter 46; 19 U.S.C. 267)”;

22 (C) by striking “customs officers” and in-  
23 serting “such employees”.

## 1 **Subtitle B—Investigative Functions**

### 2 **SEC. 121. ESTABLISHMENT OF U.S. IMMIGRATION AND CUS-** 3 **TOMS ENFORCEMENT AGENCY.**

4 (a) IN GENERAL.—Section 442 of the Homeland Se-  
5 curity Act of 2002 (6 U.S.C. 252) is amended to read  
6 as follows:

### 7 **“SEC. 442. ESTABLISHMENT OF U.S. IMMIGRATION AND** 8 **CUSTOMS ENFORCEMENT AGENCY; DIREC-** 9 **TOR.**

10 “(a) ESTABLISHMENT OF AGENCY.—There shall be  
11 in the Department of Homeland Security an agency to be  
12 known as the U.S. Immigration and Customs Enforce-  
13 ment Agency.

14 “(b) ESTABLISHMENT OF DIRECTOR.—

15 “(1) IN GENERAL.—The head of the U.S. Im-  
16 migration and Customs Enforcement Agency shall  
17 be a Director of U.S. Immigration and Customs En-  
18 forcement (in this section referred to as the ‘Direc-  
19 tor’), who shall—

20 “(A) be appointed by the President, by and  
21 with the advice and consent of the Senate;

22 “(B) carry out the duties and powers de-  
23 scribed in subsection (c), prescribed by law, and  
24 prescribed by the Secretary of Homeland Secu-  
25 rity;

1           “(C) report directly to the Secretary of  
2 Homeland Security; and

3           “(D) have a minimum of 5 years profes-  
4 sional experience in law enforcement, and a  
5 minimum of 5 years of management experience.

6           “(2) COMMITTEE REFERRAL.—As an exercise  
7 of the rulemaking power of the Senate, any nomina-  
8 tion for Director shall be referred to the Committee  
9 on Finance. If the Committee on Finance has not  
10 reported such nomination at the close of the 30th  
11 day after its referral to such Committee, the Com-  
12 mittee shall be automatically discharged from fur-  
13 ther consideration of such nomination and such  
14 nomination shall be referred to the Committee on  
15 the Judiciary.

16           “(3) COMPENSATION.—The Director shall be  
17 compensated at the rate of pay for level III of the  
18 Executive Schedule as provided in section 5314 of  
19 title 5, United States Code.

20           “(c) DUTIES OF DIRECTOR.—The duties of the Di-  
21 rector shall include—

22           “(1) establishing and overseeing the administra-  
23 tion of policies with respect to functions—

24           “(A) performed under the detention and  
25 removal program, the intelligence program, and

1 the investigations program that were trans-  
2 ferred to the Under Secretary for Border and  
3 Transportation Security by section 441 and del-  
4 egated to the Assistant Secretary for U.S. Im-  
5 migration and Customs Enforcement on the day  
6 before the date of the enactment of the Trade  
7 Facilitation and Trade Enforcement Reauthor-  
8 ization Act of 2013; and

9 “(B) otherwise vested in the Assistant Sec-  
10 retary on the day before such date of enact-  
11 ment;

12 “(2) advising the Secretary with respect to any  
13 policy or operation of the U.S. Immigration and  
14 Customs Enforcement Agency that may affect the  
15 U.S. Citizenship and Immigration Services estab-  
16 lished under subtitle E, including potentially con-  
17 flicting policies and operations;

18 “(3) conducting and coordinating investigations  
19 of violations of the customs and trade laws of the  
20 United States (as defined in section 2 of the Trade  
21 Facilitation and Trade Enforcement Reauthorization  
22 Act of 2013) and, when appropriate, referring al-  
23 leged violations of such laws for criminal prosecu-  
24 tion;

1           “(4) coordinating efforts with law enforcement  
2           and customs authorities of foreign countries to in-  
3           vestigate violations of customs and trade laws; and

4           “(5) coordinating with the Commissioner of  
5           U.S. Customs and Border Protection with respect to  
6           investigations of violations of the customs and trade  
7           laws of the United States and ensuring the develop-  
8           ment and implementation of the joint strategic plan  
9           on trade facilitation and trade enforcement required  
10          under section 123A of the Customs and Trade Act  
11          of 1990.

12          “(d) DEPUTY DIRECTOR.—The Director is author-  
13          ized to appoint, in the U.S. Immigration and Customs En-  
14          forcement Agency established under subsection (a), one  
15          Deputy Director who shall assist the Director in the man-  
16          agement of the Agency and who shall act for the Director  
17          during the absence or disability of the Director or in the  
18          event that the position of Director is vacant.

19          “(e) ADDITIONAL OFFICERS.—The Director may ap-  
20          point such officers as are necessary to manage the indi-  
21          vidual offices within the U.S. Immigration and Customs  
22          Enforcement Agency.

23          “(f) PROGRAM TO COLLECT INFORMATION RELAT-  
24          ING TO FOREIGN STUDENTS.—The Director shall be re-  
25          sponsible for administering the program to collect infor-



1 mation relating to nonimmigrant foreign students and  
2 other exchange program participants described in section  
3 641 of the Illegal Immigration Reform and Immigrant Re-  
4 sponsibility Act of 1996 (8 U.S.C. 1372), including the  
5 Student and Exchange Visitor Information System estab-  
6 lished pursuant to that section, and shall use such infor-  
7 mation to carry out the enforcement functions of the U.S.  
8 Immigration and Customs Enforcement Agency.

9 “(g) CHIEF OF POLICY AND STRATEGY.—

10 “(1) IN GENERAL.—There shall be a position of  
11 Chief of Policy and Strategy for the U.S. Immigra-  
12 tion and Customs Enforcement Agency.

13 “(2) FUNCTIONS.—In consultation with per-  
14 sonnel in local offices of the Agency, the Chief of  
15 Policy and Strategy shall be responsible for—

16 “(A) making policy recommendations and  
17 performing policy research and analysis on im-  
18 migration enforcement issues; and

19 “(B) coordinating immigration policy  
20 issues with the Chief of Policy and Strategy for  
21 the Bureau of Citizenship and Immigration  
22 Services established under section 451(c), as  
23 appropriate.

24 “(h) LEGAL ADVISOR.—There shall be a principal  
25 legal advisor to the Director. The legal advisor shall pro-

1 vide specialized legal advice to the Director and shall rep-  
2 resent the U.S. Immigration and Customs Enforcement  
3 Agency in all exclusion, deportation, and removal pro-  
4 ceedings before the Executive Office for Immigration Re-  
5 view.”.

6 (b) COMPENSATION.—

7 (1) IN GENERAL.—Section 5314 of title 5,  
8 United States Code, is amended by adding at the  
9 end the following:

10 “Director of U.S. Immigration and Customs  
11 Enforcement, Department of Homeland Security.”.

12 (2) CONTINUATION IN OFFICE.—The individual  
13 serving as Assistant Secretary for U.S. Immigration  
14 and Customs Enforcement of the Department of  
15 Homeland Security on the day before the date of the  
16 enactment of this Act may serve as Director of U.S.  
17 Immigration and Customs Enforcement until the  
18 earlier of—

19 (A) the date on which that individual is no  
20 longer eligible to serve as Assistant Secretary;  
21 or

22 (B) the date on which an individual nomi-  
23 nated by the President to be the Director of  
24 U.S. Immigration and Customs Enforcement is  
25 confirmed by the Senate.

1           (3) REFERENCE.—On and after the date of the  
2           enactment of this Act, any reference to the Assistant  
3           Secretary for U.S. Immigration and Customs En-  
4           forcement or the Assistant Secretary of the Bureau  
5           of Border Security of the Department of Homeland  
6           Security, shall be deemed to be a reference to the  
7           Director of U.S. Immigration and Customs Enforce-  
8           ment.

9           (c) CONFORMING AMENDMENTS.—

10           (1) The heading for subtitle D of title IV of the  
11           Homeland Security Act of 2002 is amended to read  
12           as follows:

13                           **“Subtitle D—Enforcement**  
14   **Functions”.**

15           (2) The table of contents for the Homeland Se-  
16           curity Act of 2002 is amended—

17                           (A) by striking the item relating to section  
18                           442 and inserting the following:

“Sec. 442. Establishment of U.S. Immigration and Customs Enforcement  
  Agency; Director.”;

19                           and

20                           (B) by striking the item relating to subtitle  
21                           D of title IV and inserting the following:

“Subtitle D—Enforcement Functions”.

22           (3) Section 451(a)(2)(C) of the Homeland Se-  
23           curity Act of 2002 (6 U.S.C. 271(a)(2)(C)) is

1 amended by striking “Assistant Secretary of the Bu-  
2 reau of Border Security” and inserting “Director of  
3 U.S. Immigration and Customs Enforcement”.

4 **SEC. 122. SEPARATE BUDGET REQUESTS FOR U.S. IMMI-  
5 GRATION AND CUSTOMS ENFORCEMENT  
6 AGENCY.**

7 The President shall include in each budget trans-  
8 mitted to Congress under section 1105 of title 31, United  
9 States Code, two separate budget requests for the U.S.  
10 Immigration and Customs Enforcement Agency—

11 (1) one for the customs operations of the Agen-  
12 cy; and

13 (2) one for the operations of the Agency other  
14 than customs operations.

15 **SEC. 123. UNDERCOVER INVESTIGATIVE OPERATIONS.**

16 Section 3131 of the Customs Enforcement Act of  
17 1986 (19 U.S.C. 2081) is amended—

18 (1) in the section heading, by striking “**CUS-  
19 TOMS SERVICE**” and inserting “**U.S. IMMIGRA-  
20 TION AND CUSTOMS ENFORCEMENT AGENCY**”;

21 (2) in subsection (a)—

22 (A) in the matter preceding paragraph

23 (1)—

24 (i) by striking “United States Cus-  
25 toms Service (hereinafter in this section re-

1           ferred to as the ‘Service’” and inserting  
2           “U.S. Immigration and Customs Enforce-  
3           ment Agency (in this section referred to as  
4           the ‘Agency’)”; and

5                 (ii) by striking “the Treasury” and in-  
6                 serting “Homeland Security”;

7           (B) in paragraph (1)—

8                 (i) in the matter preceding subpara-  
9                 graph (A), by striking “for the Service”;

10           and

11                 (ii) in subparagraph (A), by striking  
12                 clauses (i) through (v) and inserting the  
13                 following:

14                         “(i) sections 1341 and 3324 of title  
15                         31, United States Code,

16                         “(ii) section 8141 of title 40, United  
17                         States Code, and

18                         “(iii) sections 3901, 6301, and 6306,  
19                         and chapter 45, of title 41, United States  
20                         Code, and”;

21           (C) in paragraph (2), by striking “Service”  
22           and inserting “Agency”; and

23           (D) in the flush text at the end, by strik-  
24           ing “Commissioner of Customs (or, if des-  
25           ignated by the Commissioner the Deputy or an

1           Assistant Commissioner of Customs)” and in-  
2           serting “Director of U.S. Immigration and Cus-  
3           toms Enforcement (or such other officer within  
4           the Agency as the Director may designate)”;

5           (3) in subsection (b), by striking “Service, as  
6           much in advance as the Commissioner or his des-  
7           ignee determines is practicable, shall report the cir-  
8           cumstances to the Secretary of the Treasury” and  
9           inserting “Agency, as much in advance as the Direc-  
10          tor (or such other officer within the Agency as the  
11          Director may designate) determines is practicable,  
12          shall report the circumstances to the Secretary of  
13          Homeland Security and the Secretary of the Treas-  
14          ury”;

15          (4) in subsection (d)—

16                (A) in paragraph (1)—

17                   (i) in the matter preceding subpara-  
18                   graph (A), by striking “Service” and in-  
19                   serting “Director of U.S. Immigration and  
20                   Customs Enforcement”; and

21                   (ii) in subparagraph (A), by inserting  
22                   “the Secretary of Homeland Security and”  
23                   after “in writing to”; and

24                (B) in paragraph (2), in the matter pre-  
25                ceding subparagraph (A)—

1 (i) by striking “Service” and inserting  
2 “Director”; and

3 (ii) by striking “as to its undercover  
4 investigative operations” and inserting  
5 “with respect to the undercover investiga-  
6 tive operations of the Agency”; and

7 (5) in subsection (e), by striking “Service” each  
8 place it appears and inserting “Agency”.

9 **SEC. 124. AUTHORIZATION OF APPROPRIATIONS.**

10 Title III of the Customs Procedural Reform and Sim-  
11 plification Act of 1978 (19 U.S.C. 2075) is amended by  
12 inserting after section 301 the following:

13 **“SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CER-  
14 TAIN CUSTOMS ENFORCEMENT ACTIVITIES.**

15 “(a) IN GENERAL.—

16 “(1) FISCAL YEAR 2014 AND EACH FISCAL YEAR  
17 THEREAFTER.—For fiscal year 2014 and each fiscal  
18 year thereafter, there are authorized to be appro-  
19 priated to the Department of Homeland Security for  
20 the U.S. Immigration and Customs Enforcement  
21 Agency only such sums as may hereafter be author-  
22 ized by law.

23 “(2) SPECIFICATION OF AMOUNTS.—The au-  
24 thorization of the appropriations for the U.S. Immi-  
25 gration and Customs Enforcement Agency for fiscal

1 year 2014 and each fiscal year thereafter shall speci-  
2 fy—

3 “(A) the amount authorized for the fiscal  
4 year for the salaries and expenses of the Agency  
5 in conducting customs operations; and

6 “(B) the amount authorized for the fiscal  
7 year for the salaries and expenses of the Agency  
8 for other than customs operations.

9 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated for the salaries and ex-  
11 penses of the U.S. Immigration and Customs Enforcement  
12 Agency that are incurred in customs operations such sums  
13 as are necessary for fiscal years 2014 through 2018.”.

14 **Subtitle C—Joint Strategic Plan on**  
15 **Trade Facilitation and Trade**  
16 **Enforcement**

17 **SEC. 131. JOINT STRATEGIC PLAN ON TRADE FACILITATION**  
18 **AND TRADE ENFORCEMENT.**

19 (a) IN GENERAL.—Subtitle C of title I of the Cus-  
20 toms and Trade Act of 1990 (Public Law 101–382; 104  
21 Stat. 629) is amended by inserting after section 123 (19  
22 U.S.C. 2083) the following:



1 **“SEC. 123A. JOINT STRATEGIC PLAN ON TRADE FACILITA-**  
2 **TION AND TRADE ENFORCEMENT.**

3 “(a) IN GENERAL.—Not later than one year after the  
4 date of the enactment of the Trade Facilitation and Trade  
5 Enforcement Reauthorization Act of 2013, and every 2  
6 years thereafter, the Commissioner of U.S. Customs and  
7 Border Protection and the Director of U.S. Immigration  
8 and Customs Enforcement shall jointly develop and sub-  
9 mit to the Committee on Finance of the Senate and the  
10 Committee on Ways and Means of the House of Rep-  
11 resentatives a joint strategic plan on trade facilitation and  
12 trade enforcement.

13 “(b) CONTENTS.—The joint strategic plan required  
14 by subsection (a) shall be comprised of a comprehensive  
15 multiyear plan for trade facilitation and trade enforcement  
16 and shall include—

17 “(1) a summary of actions taken during the 2-  
18 year period preceding the submission of the report  
19 to improve trade facilitation and trade enforcement,  
20 including a description and analysis of specific per-  
21 formance measures to evaluate the progress of the  
22 U.S. Customs and Border Protection Agency and  
23 the U.S. Immigration and Customs Enforcement  
24 Agency with respect to trade facilitation and trade  
25 enforcement;

1           “(2) a statement of objectives and plans for  
2 further improving trade facilitation and trade en-  
3 forcement;

4           “(3) a statement of objectives and plans to  
5 strengthen the economic security and competitive-  
6 ness of the United States;

7           “(4) a designation of priority trade issues that  
8 that can be addressed in order to enhance trade fa-  
9 cilitation and trade enforcement and a description of  
10 strategies, plans, and metrics for addressing each  
11 such issue;

12           “(5) a description of efforts made to improve  
13 consultation and coordination among Federal agen-  
14 cies, and in particular between the U.S. Customs  
15 and Border Protection Agency and the U.S. Immig-  
16 ration and Customs Enforcement Agency, to en-  
17 hance trade facilitation and trade enforcement;

18           “(6) a description of efforts to work with the  
19 World Customs Organization, the World Trade Or-  
20 ganization, and other international organizations  
21 with respect to enhancing trade facilitation and  
22 trade enforcement;

23           “(7) a description of efforts made to improve  
24 consultation and coordination with the private sector  
25 to enhance trade facilitation and trade enforcement;

1           “(8) a description of the training that has oc-  
2           curred during the 2-year period preceding the sub-  
3           mission of the report within the U.S. Customs and  
4           Border Protection Agency and the U.S. Immigration  
5           and Customs Enforcement Agency to improve trade  
6           facilitation and trade enforcement;

7           “(9) a specific identification of any domestic or  
8           international best practices or technologies that may  
9           further improve trade facilitation and trade enforce-  
10          ment; and

11          “(10) any legislative recommendations to fur-  
12          ther improve trade facilitation and trade enforce-  
13          ment.

14          “(c) CONSULTATIONS.—In developing the joint stra-  
15          tegic plan required by subsection (a), the Commissioner  
16          of U.S. Customs and Border Protection and the Director  
17          of U.S. Immigration and Customs Enforcement shall con-  
18          sult with—

19                 “(1) appropriate officials of agencies rep-  
20                 resented on the Customs Facilitation and Enforce-  
21                 ment Interagency Committee established under sec-  
22                 tion 8 of the Act of March 3, 1927, and such other  
23                 agencies as the Commissioner or the Director deter-  
24                 mine appropriate; and

1           “(2) the Customs Operations Advisory Com-  
2           mittee and the Trade Support Network, as appro-  
3           priate.

4           “(d) DEFINITIONS.—In this section, the terms ‘Cus-  
5           toms Operations Advisory Committee’, ‘trade enforce-  
6           ment’, ‘trade facilitation’, and ‘Trade Support Network’  
7           have the meanings given those terms in section 2 of the  
8           Trade Facilitation and Trade Enforcement Reauthoriza-  
9           tion Act of 2013.”.

10          (b) CONFORMING AMENDMENT.—The table of con-  
11          tents for the Customs and Trade Act of 1990 is amended  
12          by inserting after the item relating to section 123 the fol-  
13          lowing:

          “Sec. 123A. Joint strategic plan on trade facilitation and trade enforcement.”.

14       **TITLE II—TRADE FACILITATION,**  
15       **TRADE ENFORCEMENT, AND**  
16       **TRANSPARENCY**

17       **Subtitle A—Trade Facilitation and**  
18       **Transparency**

19       **SEC. 201. IMPROVING PARTNERSHIP PROGRAMS.**

20          (a) IN GENERAL.—In order to advance the security,  
21          trade facilitation, and trade enforcement missions of the  
22          U.S. Customs and Border Protection Agency, the Com-  
23          missioner shall ensure that partnership programs of the  
24          Agency established before the date of the enactment of  
25          this Act, such as the Customs–Trade Partnership Against

1 Terrorism established under subtitle B of title II of the  
2 Security and Accountability for Every Port Act of 2006  
3 (6 U.S.C. 961 et seq.), and partnership programs of the  
4 Agency established after such date of enactment, provide  
5 trade benefits to private sector entities that meet the re-  
6 quirements for participation in those programs established  
7 by the Commissioner under this section.

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

11 (1) consult with private sector entities, the pub-  
12 lic, and other Federal agencies when appropriate, to  
13 ensure that participants in those programs receive  
14 commercially significant and measurable trade bene-  
15 fits;

16 (2) ensure an integrated and transparent sys-  
17 tem of trade benefits and compliance requirements  
18 for all partnership programs of the U.S. Customs  
19 and Border Protection Agency;

20 (3) consider consolidating partnership programs  
21 in situations in which doing so would support the  
22 objectives of such programs, increase participation in  
23 such programs, enhance the trade benefits provided  
24 to participants in such programs, and enhance the  
25 allocation of the resources of the Agency;

1           (4) coordinate with other Federal agencies with  
2 authority to detain and release merchandise entering  
3 the United States—

4           (A) to ensure coordination in the release of  
5 such merchandise through the Automated Com-  
6 mercial Environment computer system, or its  
7 predecessor, and the International Trade Data  
8 System;

9           (B) to ensure that the partnership pro-  
10 grams of those agencies are compatible with the  
11 partnership programs of the U.S. Customs and  
12 Border Protection Agency; and

13           (C) to develop criteria for authorizing the  
14 release, on an expedited basis, of merchandise  
15 for which documentation is required from one  
16 or more of those agencies to clear or license the  
17 merchandise for entry into the United States;  
18 and

19           (5) ensure that trade benefits are provided to  
20 participants in partnership programs.

21       (c) REPORT REQUIRED.—Not later than the date  
22 that is 180 days after the date of the enactment of this  
23 Act, and December 31 of each year thereafter, the Com-  
24 missioner shall submit to the Committee on Finance of

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

3 (1) identifies each partnership program referred  
4 to in subsection (a), including the program referred  
5 to in section 499A of the Tariff Act of 1930, as  
6 added by section 202;

7 (2) for each such program, identifies—

8 (A) the requirements for participants in  
9 the program;

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

13 (C) the number of participants in the pro-  
14 gram; and

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

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

20 (4) assesses the effectiveness of each such part-  
21 nership program in advancing the security, trade fa-  
22 cilitation, and trade enforcement missions of the  
23 U.S. Customs and Border Protection Agency, based  
24 on historical developments, the level of participation

1 in the program, and the evolution of benefits pro-  
2 vided to participants in the program;

3 (5) summarizes the efforts of the Agency to  
4 work with other Federal agencies with authority to  
5 detain and release merchandise entering the United  
6 States to ensure that partnership programs of those  
7 agencies are compatible with partnership programs  
8 of the Agency;

9 (6) identifies from among those agencies the  
10 agencies that are collaborating with the Commis-  
11 sioner to provide benefits pursuant to subsection (f)  
12 of section 499A of the Tariff Act of 1930, as added  
13 by section 202;

14 (7) summarizes criteria developed with those  
15 agencies for authorizing the release, on an expedited  
16 basis, of merchandise for which documentation is re-  
17 quired from one or more of those agencies to clear  
18 or license the merchandise for entry into the United  
19 States;

20 (8) summarizes the efforts of the Agency to  
21 work with private sector entities and the public to  
22 develop and improve partnership programs referred  
23 to in subsection (a);



1           (9) describes measures taken by the Agency to  
2           make private sector entities aware of the trade bene-  
3           fits available to participants in such programs; and

4           (10) summarizes the plans, targets, and goals  
5           of the Agency with respect to such programs for the  
6           2 years following the submission of the report.

7 **SEC. 202. TRADE FACILITATION PARTNERSHIP PROGRAM.**

8           (a) IN GENERAL.—Title IV of the Tariff Act of 1930  
9           (19 U.S.C. 1401 et seq.) is amended by adding at the end  
10          the following:

11 **“SEC. 499A. TRADE FACILITATION PARTNERSHIP PRO-**  
12 **GRAM.**

13          “(a) IN GENERAL.—The Commissioner of U.S. Cus-  
14          toms and Border Protection (in this section referred to  
15          as the ‘Commissioner’) shall establish a voluntary govern-  
16          ment–private sector program or modify an existing such  
17          program to enhance trade facilitation and trade enforce-  
18          ment and to provide trade benefits developed under sub-  
19          section (c) to qualified persons.

20          “(b) QUALIFIED PERSON DEFINED.—For purposes  
21          of this section, the term ‘qualified person’ means a person  
22          that—

23                 “(1) is involved in the entry of merchandise  
24                 into the United States, including as an intermodal  
25                 transportation system provider, contract logistics

1 provider, air, land, or sea carrier, customs broker,  
2 importer, or forwarder; and

3 “(2) demonstrates compliance with the require-  
4 ments established under subsection (e) in accordance  
5 with the procedures established under subsection  
6 (d).

7 “(c) TRADE BENEFITS.—

8 “(1) IN GENERAL.—The Commissioner shall, in  
9 consultation with the entities specified in paragraph  
10 (3), develop enhanced commercially significant and  
11 measurable trade benefits to be provided to qualified  
12 persons.

13 “(2) REQUIREMENTS.—The trade benefits de-  
14 veloped under paragraph (1) shall—

15 “(A) be designed to expedite the release of  
16 merchandise of qualified persons upon arrival of  
17 the merchandise in the United States; and

18 “(B) include—

19 “(i) consideration of the status of per-  
20 sons as qualified persons for the purposes  
21 of commercial targeting under section  
22 211(c) of the Trade Facilitation and Trade  
23 Enforcement Reauthorization Act of 2013;

24 “(ii) to the extent practicable, giving  
25 priority to qualified persons with respect to

1 the clearance of merchandise during activi-  
2 ties to resume trade after any disruption to  
3 the processing of merchandise entering the  
4 United States;

5 “(iii) providing preclearance of mer-  
6 chandise for qualified persons that dem-  
7 onstrate the highest levels of compliance  
8 with the customs and trade laws of the  
9 United States, regulations of the U.S. Cus-  
10 toms and Border Protection Agency, and  
11 requirements established under subsection  
12 (e); and

13 “(iv) any other trade benefits the  
14 Commissioner determines appropriate for  
15 achieving the goals of the program under  
16 subsection (a).

17 “(3) ENTITIES SPECIFIED.—The entities speci-  
18 fied in this paragraph are—

19 “(A) the Customs Operations Advisory  
20 Committee established under section 205 of the  
21 Trade Facilitation and Trade Enforcement Re-  
22 authorization Act of 2013;

23 “(B) the Trade Support Network (as de-  
24 fined in section 2 of that Act);

1           “(C) the Committee on Finance of the  
2           Senate; and

3           “(D) the Committee on Ways and Means  
4           of the House of Representatives.

5           “(d) PROCEDURES.—The Commissioner shall estab-  
6           lish procedures with respect to the following:

7           “(1) Submission and approval of applications to  
8           receive trade benefits under the program under sub-  
9           section (a).

10          “(2) Verification that an applicant to receive  
11          trade benefits under the program is a qualified per-  
12          son.

13          “(3) Reverification that a person receiving  
14          trade benefits under the program continues to be a  
15          qualified person.

16          “(4) Withdrawal of trade benefits from a per-  
17          son that the Commissioner determines is not a quali-  
18          fied person.

19          “(5) Appeals of decisions of the Commissioner  
20          under this section.

21          “(e) REQUIREMENTS.—

22          “(1) IN GENERAL.—The Commissioner, in con-  
23          sultation with the entities specified in subsection  
24          (c)(3)—

1           “(A) shall establish requirements for re-  
2           ceiving trade benefits under the program under  
3           subsection (a); and

4           “(B) may establish multiple tiers of re-  
5           quirements and trade benefits under the pro-  
6           gram.

7           “(2) MINIMUM REQUIREMENTS.—The minimum  
8           requirements for a person to receive trade benefits  
9           under the program under subsection (a) are the fol-  
10          lowing:

11           “(A) The certification of the person as a  
12           member of the Customs–Trade Partnership  
13           Against Terrorism established under subtitle B  
14           of title II of the Security and Accountability for  
15           Every Port Act of 2006 (6 U.S.C. 961 et seq.)  
16           or an equivalent certification in a successor pro-  
17           gram.

18           “(B) A history of compliance by the person  
19           with the customs and trade laws of the United  
20           States and regulations of the U.S. Customs and  
21           Border Protection Agency.

22           “(f) INTERAGENCY PROGRAM BENEFITS.—The Com-  
23           missioner shall collaborate with the head of each Federal  
24           agency with authority to detain and release merchandise  
25           entering the United States to develop benefits to be pro-

1 vided to persons that receive trade benefits under the pro-  
2 gram under subsection (a) and that import merchandise  
3 into the United States that requires clearance by that  
4 agency, including—

5           “(1) the submission to, and retrieval of infor-  
6 mation from, that agency relating to the entry and  
7 release of that merchandise through the Automated  
8 Commercial Environment, or its predecessor, and  
9 the International Trade Data System;

10           “(2) the preclearance of that merchandise by  
11 that agency through the Automated Commercial En-  
12 vironment or its predecessor to the extent possible;  
13 and

14           “(3) any other benefits that the Commissioner  
15 and the head of that agency determine appropriate.

16           “(g) CONFIDENTIAL INFORMATION SAFEGUARDS.—  
17 The Commissioner, in consultation with the Customs Op-  
18 erations Advisory Committee established under section  
19 205 of the Trade Facilitation and Trade Enforcement Re-  
20 authorization Act of 2013, shall establish procedures to  
21 safeguard confidential data collected, stored, or shared  
22 with the U.S. Customs and Border Protection Agency or  
23 any other Federal agency pursuant to this section.

24           “(h) CUSTOMS AND TRADE LAWS OF THE UNITED  
25 STATES DEFINED.—In this section, the term ‘customs

1 and trade laws of the United States’ has the meaning  
2 given that term in section 2 of the Trade Facilitation and  
3 Trade Enforcement Reauthorization Act of 2013.”.

4 (b) FEDERAL REGISTER NOTICE.—Not later than 90  
5 days after the date of the enactment of this Act, the Com-  
6 missioner shall publish a notice in the Federal Register  
7 setting forth the requirements of section 499A of the Tar-  
8 iff Act of 1930, as added by subsection (a), and seeking  
9 public comments on the development and implementation  
10 of the program under that section.

11 **SEC. 203. CENTERS OF EXCELLENCE AND EXPERTISE.**

12 The Commissioner shall, in consultation with private  
13 sector entities, develop and implement Agency-wide Cen-  
14 ters of Excellence and Expertise that—

15 (1) build the expertise of the U.S. Customs and  
16 Border Protection Agency in particular industry op-  
17 erations, supply chains, and compliance require-  
18 ments;

19 (2) ensure the uniform implementation across  
20 United States ports of entry of policies and regula-  
21 tions affecting major import sectors;

22 (3) centralize decisionmaking of the Agency  
23 that impacts particular industries;

24 (4) enhance trade facilitation and trade enforce-  
25 ment; and

1           (5) formalize an account-based approach to the  
2           importation of merchandise into the United States  
3           by persons the Commissioner determines have a his-  
4           tory of compliance with the customs and trade laws  
5           of the United States.

6 **SEC. 204. MUTUAL RECOGNITION AGREEMENTS.**

7           (a) **NEGOTIATING OBJECTIVE.**—It shall be a negoti-  
8           ating objective of the United States in any negotiation for  
9           a mutual recognition agreement with a foreign country on  
10          partnership programs, such as the Customs–Trade Part-  
11          nership Against Terrorism established under subtitle B of  
12          title II of the Security and Accountability for Every Port  
13          Act of 2006 (6 U.S.C. 961 et seq.), to seek to ensure the  
14          compatibility of the partnership programs of that country  
15          with the partnership programs of the U.S. Customs and  
16          Border Protection Agency to enhance trade facilitation  
17          and trade enforcement.

18          (b) **CONSULTATIONS.**—Not later than 30 days before  
19          entering into a mutual recognition agreement described in  
20          subsection (a), the Secretary of Homeland Security shall  
21          consult with the Committee on Finance of the Senate and  
22          the Committee on Ways and Means of the House of Rep-  
23          resentatives with respect to how the provisions of the  
24          agreement will advance the security, trade facilitation, and



1 trade enforcement missions of the U.S. Customs and Bor-  
2 der Protection Agency.

3 **SEC. 205. CUSTOMS OPERATIONS ADVISORY COMMITTEE.**

4 (a) ESTABLISHMENT.—Not later than December 31,  
5 2013, the Secretary of the Treasury and the Secretary of  
6 Homeland Security shall jointly establish a Customs Oper-  
7 ations Advisory Committee (in this section referred to as  
8 the “Advisory Committee”).

9 (b) MEMBERSHIP.—

10 (1) IN GENERAL.—The Advisory Committee  
11 shall be comprised of—

12 (A) 20 individuals appointed under para-  
13 graph (2);

14 (B) the Commissioner and the Assistant  
15 Secretary for Tax Policy of the Department of  
16 the Treasury, who shall jointly co-chair meet-  
17 ings of the Advisory Committee; and

18 (C) the Assistant Secretary for Policy of  
19 the Department of Homeland Security and the  
20 Director of U.S. Immigration and Customs En-  
21 forcement, who shall serve as deputy co-chairs  
22 of meetings of the Advisory Committee.

23 (2) APPOINTMENT.—

24 (A) IN GENERAL.—Not later than 180  
25 days after the date of the enactment of this

1 Act, the Secretary of the Treasury and the Sec-  
2 retary of Homeland Security shall jointly ap-  
3 point 20 individuals from the private sector to  
4 the Advisory Committee, not more than 10 of  
5 whom shall be of the same political party.

6 (B) TERMS.—Each individual appointed to  
7 the Advisory Committee under this paragraph  
8 shall be appointed for a term of up to 3 years,  
9 and may be reappointed to subsequent terms,  
10 but may not serve more than 2 terms sequen-  
11 tially.

12 (3) QUALIFICATIONS.—The individuals ap-  
13 pointed to the Advisory Committee shall be broadly  
14 representative of the sectors of the United States  
15 economy affected by the commercial operations of  
16 the U.S. Customs and Border Protection Agency  
17 and the investigations of the U.S. Immigration and  
18 Customs Enforcement Agency.

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

1 before the date of the enactment of this Act to the  
2 Advisory Committee established under subsection  
3 (a).

4 (c) DUTIES.—The Advisory Committee established  
5 under subsection (a) shall—

6 (1) advise the Secretary of the Treasury and  
7 the Secretary of Homeland Security on all matters  
8 involving the commercial operations of the U.S. Cus-  
9 toms and Border Protection Agency and the inves-  
10 tigations of the U.S. Immigration and Customs En-  
11 forcement Agency, including advising with respect to  
12 significant changes that are proposed with respect to  
13 policies or regulations of either such Agency;

14 (2) provide recommendations to the Secretary  
15 of the Treasury and the Secretary of Homeland Se-  
16 curity on improvements to the commercial operations  
17 of the U.S. Customs and Border Protection Agency  
18 and the investigations of the U.S. Immigration and  
19 Customs Enforcement Agency; and

20 (3) perform such other functions relating to the  
21 commercial operations of the U.S. Customs and Bor-  
22 der Protection Agency and the investigations of the  
23 U.S. Immigration and Customs Enforcement Agency  
24 as prescribed by law or as the Secretary of the

1 Treasury and the Secretary of Homeland Security  
2 jointly direct.

3 (d) MEETINGS.—

4 (1) IN GENERAL.—The Advisory Committee  
5 shall meet at the call of the Secretary of the Treas-  
6 ury and the Secretary of Homeland Security or at  
7 the call of not less than  $\frac{2}{3}$  of the membership of the  
8 Advisory Committee.

9 (2) NUMBER OF MEETINGS.—The Advisory  
10 Committee shall, at a minimum, meet at least 4  
11 times each calendar year. Additional meetings may  
12 be called of such special task forces or other groups  
13 made up of members of the Advisory Committee as  
14 the Advisory Committee determines appropriate.

15 (3) ADDITION OF AGENDA ITEMS.—Any mem-  
16 ber of the Advisory Committee may recommend ad-  
17 ditional items for the agenda of a meeting before the  
18 meeting.

19 (4) OPEN MEETINGS.—A meeting of the Advi-  
20 sory Committee shall be open to the public unless  
21 the Secretary of the Treasury and the Secretary of  
22 Homeland Security determine that the meeting will  
23 include matters the disclosure of which would seri-  
24 ously compromise the development of policies, prior-  
25 ities, or negotiating objectives or positions that could

1 impact the commercial operations of the U.S. Cus-  
2 toms and Border Protection Agency or the investiga-  
3 tions of the U.S. Immigration and Customs Enforce-  
4 ment Agency.

5 (e) REPORTS.—

6 (1) ANNUAL REPORT.—Not later than Decem-  
7 ber 31 of each calendar year, the Advisory Com-  
8 mittee shall submit to the Committee on Finance of  
9 the Senate and the Committee on Ways and Means  
10 of the House of Representatives a report that—

11 (A) describes the activities of the Advisory  
12 Committee during the preceding fiscal year; and

13 (B) sets forth any recommendations of the  
14 Advisory Committee regarding the commercial  
15 operations of the U.S. Customs and Border  
16 Protection Agency and the investigations of the  
17 U.S. Immigration and Customs Enforcement  
18 Agency during the preceding fiscal year.

19 (2) ADDITIONAL REPORTS.—The members of  
20 the Advisory Committee appointed under subsection  
21 (b)(2) may submit directly to the Committee on Fi-  
22 nance of the Senate and the Committee on Ways  
23 and Means of the House of Representatives such ad-  
24 ditional reports on the commercial operations of the  
25 U.S. Customs and Border Protection Agency and

1 the investigations of the U.S. Immigration and Cus-  
2 toms Enforcement Agency as such members deter-  
3 mine appropriate.

4 (f) APPLICABILITY OF FEDERAL ADVISORY COM-  
5 MITTEE ACT.—The provisions of the Federal Advisory  
6 Committee Act (5 U.S.C. App.) shall apply to the Advisory  
7 Committee, except as follows:

8 (1) Subsections (a) and (b) of section 10 of  
9 such Act (relating to open meetings and availability  
10 of information) shall not apply.

11 (2) Section 11 of such Act (relating to the  
12 availability of transcripts of meetings) shall not  
13 apply.

14 (3) Section 14(a)(2) of such Act (relating to  
15 termination) shall be applied by substituting “4-year  
16 period” for “two-year period”.

17 (g) CONFORMING REPEAL.—Effective January 31,  
18 2014, section 9503(c) of the Omnibus Budget Reconcili-  
19 ation Act of 1987 (19 U.S.C. 2071 note) is repealed.

20 (h) REFERENCES.—On or after January 31, 2014,  
21 any reference in law to the Advisory Committee on Com-  
22 mercial Operations of the United States Customs Service  
23 established under section 9503(c) of the Omnibus Budget  
24 Reconciliation Act of 1987 (19 U.S.C. 2071 note) shall

1 be deemed to be a reference to the Customs Operations  
2 Advisory Committee established under subsection (a).

3 (i) CONFORMING AMENDMENTS.—

4 (1) SAFE PORT ACT.—The Security and Ac-  
5 countability for Every Port Act of 2006 (6 U.S.C.  
6 901 et seq.) is amended—

7 (A) in section 2, by striking paragraph (2)  
8 and inserting the following:

9 “(2) CUSTOMS OPERATIONS ADVISORY COM-  
10 MITTEE.—The term ‘Customs Operations Advisory  
11 Committee’ means the Advisory Committee estab-  
12 lished under section 205 of the Trade Facilitation  
13 and Trade Enforcement Reauthorization Act of  
14 2013 or any successor committee.”; and

15 (B) by striking “Commercial Operations  
16 Advisory Committee” each place it appears and  
17 inserting “Customs Operations Advisory Com-  
18 mittee”.

19 (2) TARIFF ACT OF 1930.—Section 411(d) of  
20 the Tariff Act of 1930 (19 U.S.C. 1411(d)) is  
21 amended—

22 (A) in paragraph (1)(D), by striking  
23 “Commercial Operations Advisory Committee”  
24 and inserting “Customs Operations Advisory  
25 Committee”; and

1 (B) by striking paragraph (7) and insert-  
 2 ing the following:

3 “(7) CUSTOMS OPERATIONS ADVISORY COM-  
 4 MITTEE DEFINED.—In this section, the term ‘Cus-  
 5 toms Operations Advisory Committee’ means the  
 6 Advisory Committee established under section 205 of  
 7 the Trade Facilitation and Trade Enforcement Re-  
 8 authorization Act of 2013 or any successor com-  
 9 mittee.”.

10 (3) EFFECTIVE DATE.—The amendments made  
 11 by this subsection shall take effect on January 1,  
 12 2014.

13 **SEC. 206. AUTOMATED COMMERCIAL ENVIRONMENT COM-  
 14 PUTER SYSTEM.**

15 (a) FUNDING.—Section 13031(f)(5) of the Consoli-  
 16 dated Omnibus Budget Reconciliation Act of 1985 (19  
 17 U.S.C. 58c(f)(5)) is amended—

18 (1) in subparagraph (A)—

19 (A) by striking “2003, 2004, and 2005”  
 20 and inserting “2014 through 2018”; and

21 (B) by striking “\$350,000,000” and in-  
 22 serting “\$325,000,000”; and

23 (2) by striking subparagraph (B) and inserting  
 24 the following:



1       “(B)(i) From amounts that are available in the Ac-  
2 count, there are authorized to be appropriated—

3           “(I) for each of fiscal years 2014 through 2016,  
4       \$140,000,000 to complete the development of the  
5       Automated Commercial Environment computer sys-  
6       tem;

7           “(II) for each of fiscal years 2017 and 2018,  
8       \$115,000,000 for the operation and maintenance of  
9       the Automated Commercial Environment computer  
10       system; and

11          “(III) for fiscal years 2014 through 2018, such  
12       amounts as are available in the Account after the  
13       obligation of amounts pursuant to the authorizations  
14       of appropriations under subclauses (I) and (II) and  
15       subparagraph (C) for other purposes related to the  
16       functions of the Department of Homeland Security.

17          “(ii) Amounts authorized to be appropriated pursu-  
18       ant to this subparagraph shall remain available until ex-  
19       pendent.

20          “(iii) Not more than 1 percent of the amounts au-  
21       thorized to be appropriated from the Account under sub-  
22       clauses (I) and (II) of clause (i) may be used as matching  
23       funds to assist Federal agencies (other than the Depart-  
24       ment of Homeland Security) with authority to detain and  
25       release merchandise entering the United States in devel-

1 oping their respective automated release programs that  
2 are integrated with the Automated Commercial Environ-  
3 ment computer system.”.

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

7 “(3) REPORT.—

8 “(A) IN GENERAL.—Not later than De-  
9 cember 31, 2013, the Commissioner of U.S.  
10 Customs and Border Protection shall submit to  
11 the Committee on Appropriations and the Com-  
12 mittee on Finance of the Senate and the Com-  
13 mittee on Appropriations and the Committee on  
14 Ways and Means of the House of Representa-  
15 tives a report—

16 “(i) describing the plans of the U.S.  
17 Customs and Border Protection Agency,  
18 including deadlines, for incorporating all  
19 cargo release data elements into the Auto-  
20 mated Commercial Environment computer  
21 system not later than September 30, 2015,  
22 to conform with the admissibility criteria  
23 of agencies participating in the Inter-  
24 national Trade Data System identified

1           pursuant to subsection (d)(4)(A)(iii) of  
2           section 411 of the Tariff Act of 1930;

3           “(ii) identifying the components of the  
4           National Customs Automation Program  
5           specified in subsection (a)(2) of such sec-  
6           tion 411 that have not been implemented;

7           “(iii) identifying the priorities of the  
8           Agency for incorporating entry summary  
9           data elements, cargo manifest data ele-  
10          ments, and cargo financial data elements  
11          into the Automated Commercial Environ-  
12          ment computer system;

13          “(iv) describing the objectives, plans,  
14          and deadlines of the Agency for imple-  
15          menting the components identified under  
16          clause (ii) and the priorities identified  
17          under cause (iii) not later than September  
18          30, 2016; and

19          “(v) describing any additional compo-  
20          nent of the National Customs Automation  
21          Program initiated by the Commissioner to  
22          complete the development, establishment,  
23          and implementation of the Automated  
24          Commercial Environment computer sys-  
25          tem.

1           “(B) UPDATE OF REPORTS.—Not later  
2           than June 30, 2014, and every 180 days there-  
3           after, the Commissioner shall submit to the  
4           Committee on Appropriations and the Com-  
5           mittee on Finance of the Senate and the Com-  
6           mittee on Appropriations and the Committee on  
7           Ways and Means of the House of Representa-  
8           tives an updated report addressing each of the  
9           matters referred to in subparagraph (A).”.

10       (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
11       PORT.—Not later than one year after the date of the en-  
12       actment of this Act, the Comptroller General of the United  
13       States shall submit to the Committee on Appropriations  
14       and the Committee on Finance of the Senate and the  
15       Committee on Appropriations and the Committee on Ways  
16       and Means of the House of Representatives a report—

17           (1) evaluating the cost and effectiveness of the  
18           efforts of the U.S. Customs and Border Protection  
19           Agency to complete the development, establishment,  
20           and implementation of the Automated Commercial  
21           Environment computer system;

22           (2) assessing the extent to which any additional  
23           functionality may be added into the Automated  
24           Commercial Environment computer system at a rea-  
25           sonable cost; and

1           (3) assessing the progress of other Federal  
2 agencies in accessing and utilizing the Automated  
3 Commercial Environment computer system.

4 **SEC. 207. INTERNATIONAL TRADE DATA SYSTEM.**

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

8           (1) by redesignating paragraphs (4) through  
9 (7) as paragraphs (5) through (8), respectively; and  
10           (2) by inserting after paragraph (3) the fol-  
11 lowing:

12           “(4) INFORMATION TECHNOLOGY INFRASTRUC-  
13 TURE.—

14           “(A) IN GENERAL.—The Secretary shall  
15 work with the head of each agency participating  
16 in the ITDS and the Interagency Steering  
17 Committee to ensure that each such agency—

18           “(i) develops and maintains the nec-  
19 essary information technology infrastruc-  
20 ture to support the operation of the ITDS  
21 and to submit all data to the ITDS elec-  
22 tronically;

23           “(ii) enters into a memorandum of  
24 understanding, or takes such other action  
25 as is necessary, to provide for the informa-

1           tion sharing between the agency and the  
2           U.S. Customs and Border Protection  
3           Agency necessary for the operation and  
4           maintenance of the ITDS; and

5           “(iii) not later than June 30, 2014,  
6           identifies and transmits to the Commis-  
7           sioner of U.S. Customs and Border Protec-  
8           tion the admissibility criteria and data ele-  
9           ments required by the agency to authorize  
10          the release of cargo by the U.S. Customs  
11          and Border Protection Agency for incorpo-  
12          ration into the operational functionality of  
13          the Automated Commercial Environment  
14          computer system.

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

20          (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
21          13031(f)(5) of the Consolidated Omnibus Budget Rec-  
22          onciliation Act of 1985 (19 U.S.C. 58c(f)(5)), as amended  
23          by section 206(a), is further amended by striking subpara-  
24          graph (C) and inserting the following:

1       “(C) There are authorized to be appropriated to the  
2 Secretary of the Treasury from amounts available in the  
3 Account \$25,000,000 for each of fiscal years 2014  
4 through 2018, to remain available until expended, to carry  
5 out the provisions of section 411(d)(4) of the Tariff Act  
6 of 1930.”.

7       (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
8 PORT.—Not later than June 30, 2015, the Comptroller  
9 General of the United States shall submit to the Com-  
10 mittee on Appropriations and the Committee on Finance  
11 of the Senate and the Committee on Appropriations and  
12 the Committee on Ways and Means of the House of Rep-  
13 resentatives a report—

14           (1) evaluating the development and mainte-  
15 nance of the information technology infrastructure  
16 necessary to support the operations of the Inter-  
17 national Trade Data System; and

18           (2) assessing the number of memoranda of un-  
19 derstanding and other actions taken by the U.S.  
20 Customs and Border Protection Agency and other  
21 Federal agencies to ensure the sharing of electronic  
22 import and export data.

1 **SEC. 208. ELECTRONIC SUBMISSION OF PUBLIC COM-**  
 2 **MENTS.**

3 Not later than one year after the date of the enact-  
 4 ment of this Act, the Commissioner shall provide—

5 (1) for the electronic submission and posting of  
 6 any public comments solicited by the U.S. Customs  
 7 and Border Protection Agency on the Internet  
 8 website of the Agency; and

9 (2) for the prompt posting of public comments  
 10 associated with any rulemaking of the Agency on the  
 11 Federal Government Internet website for Federal  
 12 regulations, [www.regulations.gov](http://www.regulations.gov), or any successor  
 13 website.

14 **Subtitle B—Trade Enforcement**

15 **CHAPTER 1—COMMERCIAL TARGETING**

16 **SEC. 211. COMMERCIAL TARGETING DIVISION AND NA-**  
 17 **TIONAL TARGETING AND ANALYSIS GROUPS.**

18 (a) ESTABLISHMENT OF COMMERCIAL TARGETING  
 19 DIVISION.—

20 (1) IN GENERAL.—The Secretary of Homeland  
 21 Security shall establish and maintain within the Of-  
 22 fice of Trade of the U.S. Customs and Border Pro-  
 23 tection Agency, established under section 4 of the  
 24 Act of March 3, 1927, as added by section 102, a  
 25 Commercial Targeting Division.



1           (2) COMPOSITION.—The Commercial Targeting  
2 Division shall be composed of—

3           (A) headquarters personnel led by an Ex-  
4 ecutive Director, who shall report to the Assist-  
5 ant Commissioner for Trade; and

6           (B) individual National Targeting and  
7 Analysis Groups, each led by a Director who  
8 shall report to the Executive Director of the  
9 Commercial Targeting Division.

10          (3) DUTIES.—The Commercial Targeting Divi-  
11 sion shall be dedicated—

12           (A) to the development and conduct of  
13 commercial targeting with respect to cargo des-  
14 tined for the United States in accordance with  
15 subsection (c); and

16           (B) to issuing Trade Alerts described in  
17 subsection (d).

18          (b) NATIONAL TARGETING AND ANALYSIS  
19 GROUPS.—

20           (1) IN GENERAL.—The Commissioner shall de-  
21 termine the priorities of the National Targeting and  
22 Analysis Groups referred to in subsection (a)(2)(B),  
23 to include the enforcement, with respect to the im-  
24 portation of merchandise into the United States,  
25 of—

- 1 (A) intellectual property rights;
- 2 (B) health and safety laws and regulations;
- 3 (C) agriculture-related laws and regula-
- 4 tions;
- 5 (D) textile- and apparel-related laws and
- 6 regulations;
- 7 (E) general revenue laws and regulations;
- 8 and
- 9 (F) non-general revenue laws and regula-
- 10 tions, including with respect to antidumping
- 11 and countervailing duties.

12 (c) COMMERCIAL TARGETING.—In carrying out its

13 duties with respect to commercial targeting, the Commer-

14 cial Targeting Division shall—

15 (1) establish targeting methodologies and

16 standards for—

17 (A) assessing the risk that cargo destined

18 for the United States may violate the customs

19 and trade laws of the United States; and

20 (B) issuing, as appropriate, Trade Alerts

21 described in subsection (d);

22 (2) to the extent practicable and otherwise au-

23 thorized by law, use, to administer the methodologies

24 and standards established under paragraph (1)—

25 (A) publicly available information;

1 (B) information available from the Auto-  
2 mated Commercial System, the Automated  
3 Commercial Environment computer system, the  
4 Automated Targeting System, the Automated  
5 Export System, the International Trade Data  
6 System, the TECS (formerly known as the  
7 “Treasury Enforcement Communications Sys-  
8 tem”), and the case management system of the  
9 U.S. Immigration and Customs Enforcement  
10 Agency, and any successors to those systems;  
11 and

12 (C) information made available to the  
13 Commercial Targeting Division, including infor-  
14 mation provided by private sector entities; and

15 (3) coordinate targeting efforts with other Fed-  
16 eral agencies with authority to detain and release  
17 merchandise entering the United States.

18 (d) TRADE ALERTS.—

19 (1) ISSUANCE.—Based upon the application of  
20 the targeting methodologies and standards estab-  
21 lished under subsection (c), the Executive Director  
22 of the Commercial Targeting Division and the Direc-  
23 tors of the National Targeting and Analysis Groups  
24 may issue Trade Alerts to port directors providing  
25 guidance for further inspection, physical examina-

1 tion, or testing, of specific merchandise if certain  
2 risk-assessment thresholds are met to improve com-  
3 pliance with the customs and trade laws of the  
4 United States and regulations administered by the  
5 U.S. Customs and Border Protection Agency.

6 (2) DETERMINATIONS NOT TO IMPLEMENT  
7 TRADE ALERTS.—A port director may determine not  
8 to follow a Trade Alert issued under paragraph (1)  
9 that requires further inspection, physical examina-  
10 tion, or testing if the port director—

11 (A) finds that such a determination is jus-  
12 tified by security interests; and

13 (B) notifies the Trade Facilitation and  
14 Trade Enforcement Division of the Office of  
15 Field Operations of the determination not to  
16 follow the Trade Alert and the reasons for the  
17 determination not later than 48 hours after  
18 making the determination.

19 (3) SUMMARY OF DETERMINATIONS NOT TO IM-  
20 PLEMENT.—The Trade Facilitation and Trade En-  
21 forcement Division shall—

22 (A) compile an annual summary of all de-  
23 terminations by port directors under paragraph  
24 (2) and the reasons for those determinations;

1           (B) conduct an evaluation of the utilization  
2 of Trade Alerts issued under paragraph (1);  
3 and

4           (C) submit the summary compiled under  
5 subparagraph (A) and the evaluation conducted  
6 under subparagraph (B) to the Committee on  
7 Finance of the Senate and the Committee on  
8 Ways and Means of the House of Representa-  
9 tives not later than December 31 of each year.

10           (4) INSPECTION DEFINED.—In this subsection,  
11 the term “inspection” means the comprehensive  
12 evaluation process used by the U.S. Customs and  
13 Border Protection Agency, other than physical ex-  
14 amination or testing, to permit the entry of mer-  
15 chandise into the United States, or the clearance of  
16 merchandise for transportation in bond through the  
17 United States, for purposes of—

18           (A) assessing duties;

19           (B) identifying restricted or prohibited  
20 items; and

21           (C) ensuring compliance with the customs  
22 and trade laws of the United States and regula-  
23 tions administered by the Agency.

24           (e) USE OF TRADE DATA FOR COMMERCIAL EN-  
25 FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the

1 Trade Act of 2002 (19 U.S.C. 2071 note) is amended to  
2 read as follows:

3           “(F) The information collected pursuant to  
4           the regulations shall be used for ensuring avia-  
5           tion, maritime, and surface transportation safe-  
6           ty and security, and may be used for commer-  
7           cial enforcement purposes. A person that pro-  
8           vides information pursuant to the regulations  
9           that is used to detect a violation of any statute  
10          or regulation relating to commercial enforce-  
11          ment shall be subject to commercial penalties  
12          pursuant to that statute or regulation only if  
13          the person is found to have committed fraud in  
14          providing the information.”.

15 **SEC. 212. ANNUAL ILLEGAL DRUG CONTROL LAW EN-**  
16 **FORCEMENT STRATEGY.**

17       (a) IN GENERAL.—Section 123 of the Customs and  
18 Trade Act of 1990 (19 U.S.C. 2083) is amended to read  
19 as follows:

20 **“SEC. 123. ANNUAL ILLEGAL DRUG CONTROL LAW EN-**  
21 **FORCEMENT STRATEGY.**

22       “(a) REPORTS ON VIOLATION ESTIMATES.—Not  
23 later than one year after the date of the enactment of the  
24 Trade Facilitation and Trade Enforcement Reauthoriza-  
25 tion Act of 2013, and annually thereafter, the Commis-

1 sioner of U.S. Customs and Border Protection and the Di-  
2 rector of U.S. Immigration and Customs Enforcement  
3 shall jointly develop and submit to the chairperson and  
4 ranking member of the Committee on Finance of the Sen-  
5 ate and of the Committee on Ways and Means of the  
6 House of Representatives (in this section referred to as  
7 the ‘Committees’) in accordance with subsection (d) a re-  
8 port that contains an estimate of—

9           “(1) the number and extent of violations of the  
10 illegal drug control laws specified in subsection (b)  
11 that are likely to occur during the year following the  
12 report; and

13           “(2) the relative incidence of the violations de-  
14 scribed in paragraph (1) among the various United  
15 States ports of entry and customs regions within the  
16 customs territory of the United States during the  
17 year preceding the report.

18           “(b) ILLEGAL DRUG CONTROL LAWS SPECIFIED.—  
19 The Commissioner of U.S. Customs and Border Protec-  
20 tion and the Director of U.S. Immigration and Customs  
21 Enforcement, after consultation with the Committees—

22           “(1) shall, not later than 180 days after the  
23 date of the enactment of the Trade Facilitation and  
24 Trade Enforcement Reauthorization Act of 2013,  
25 prepare a list of those provisions of the illegal drug

1 control laws of the United States with respect to  
2 which the U.S. Customs and Border Protection  
3 Agency and the U.S. Immigration and Customs En-  
4 forcement Agency have enforcement responsibility  
5 and to which the reports required by subsection (a)  
6 will apply; and

7 “(2) may periodically update the list developed  
8 under paragraph (1), as warranted.

9 “(c) ENFORCEMENT STRATEGY.—Not later than 90  
10 days after submitting a report under subsection (a), the  
11 Commissioner of U.S. Customs and Border Protection and  
12 the Director of U.S. Immigration and Customs Enforce-  
13 ment shall jointly—

14 “(1) develop or update a strategy for enforcing  
15 the illegal drug control laws specified in subsection  
16 (b) in a nationally uniform manner and addressing  
17 the violations estimated in the report during the pe-  
18 riod covered by the report; and

19 “(2) submit to the chairperson and ranking  
20 member of each of the Committees a confidential re-  
21 port setting forth the details of the strategy de-  
22 scribed in paragraph (1).

23 “(d) CONFIDENTIALITY.—The contents of any report  
24 submitted to the chairperson and ranking member of each  
25 of the Committees under subsection (a) or (c) are con-



1 fidential and the disclosure of the contents is restricted  
2 to—

3 “(1) officers and employees of the United  
4 States designated by the Commissioner of U.S. Cus-  
5 toms and Border Protection or the Director of U.S.  
6 Customs and Immigration Enforcement to have ac-  
7 cess to the contents of the report;

8 “(2) the chairperson and ranking member of  
9 each of the Committees; and

10 “(3) such Members of Congress and staff of  
11 such Members as the chairperson or ranking mem-  
12 ber of either of the Committees may authorize to  
13 have access to the contents of the report.”.

14 (b) CONFORMING AMENDMENT.—The table of con-  
15 tents for the Customs and Trade Act of 1990 is amended  
16 by striking the item relating to section 123 and inserting  
17 the following:

“Sec. 123. Annual illegal drug control law enforcement strategy.”.

18 **SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
19 **TION AND ENFORCEMENT MEASURES BY THE**  
20 **INSPECTOR GENERAL.**

21 Not later than June 30, 2015, the Inspector General  
22 of the Department of the Treasury shall submit to the  
23 Committee on Finance of the Senate and the Committee  
24 on Ways and Means of the House of Representatives a  
25 report assessing the following:

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

4           (A) the collection of countervailing and  
5 antidumping duties;

6           (B) the assessment and collection of com-  
7 mercial fines and penalties; and

8           (C) the adequacy of the policies of the  
9 Agency with respect to monitoring and tracking  
10 of merchandise transported in bond and col-  
11 lecting duties, as appropriate.

12          (2) The effectiveness of actions taken by the  
13 Agency to measure accountability and performance  
14 with respect to revenue protection.

15          (3) The number of entries resulting in the un-  
16 derpayment of duties and a summary of the actions  
17 taken to address the underpayment of duties.

18          (4) The effectiveness of training with respect to  
19 the collection of duties provided for personnel of the  
20 Agency.

21 **SEC. 214. REPORT ON SECURITY AND REVENUE MEASURES**  
22 **WITH RESPECT TO MERCHANDISE TRANS-**  
23 **PORTED IN BOND.**

24          (a) IN GENERAL.—Not later than December 31 of  
25 2014, 2015, and 2016, the Secretary of Homeland Secu-

1 rity and the Secretary of the Treasury shall jointly submit  
2 to the Committee on Finance of the Senate and the Com-  
3 mittee on Ways and Means of the House of Representa-  
4 tives a report on efforts undertaken by the U.S. Customs  
5 and Border Protection Agency to ensure the secure trans-  
6 portation of merchandise in bond through the United  
7 States and the collection of revenue owed upon the entry  
8 of such merchandise into the United States for consump-  
9 tion.

10 (b) CONTENTS.—The report required by subsection  
11 (a) shall include information, for the 2 fiscal years pre-  
12 ceding the submission of the report, on—

13 (1) the overall number of entries of merchan-  
14 dise for transportation in bond through the United  
15 States;

16 (2) the ports at which merchandise arrives in  
17 the United States for transportation in bond and at  
18 which records of the arrival of such merchandise are  
19 generated;

20 (3) the average time taken to reconcile such  
21 records with the records at the final destination of  
22 the merchandise in the United States to demonstrate  
23 that the merchandise reaches its final destination or  
24 is reexported;

1           (4) the average time taken to transport mer-  
2           chandise in bond from the port at which the mer-  
3           chandise arrives in the United States to the final  
4           destination of the merchandise in the United States;

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

9           (6) the total number of notifications by carriers  
10          of merchandise being transported in bond that the  
11          destination of the merchandise has changed while in  
12          transit in the United States; and

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

15 **SEC. 215. IMPORTER OF RECORD PROGRAM.**

16          (a) **ESTABLISHMENT.**—Not later than 180 days after  
17          the date of the enactment of this Act, the Secretary of  
18          Homeland Security shall establish an importer of record  
19          program to assign and maintain importer of record num-  
20          bers.

21          (b) **REQUIREMENTS.**—The Secretary of Homeland  
22          Security shall ensure that, as part of the importer of  
23          record program, the U.S. Customs and Border Protection  
24          Agency—

1           (1) develops criteria that importers must meet  
2           in order to obtain an importer of record number;

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

5           (3) maintains a centralized database of im-  
6           porter of record numbers, including a history of im-  
7           porter of record numbers associated with each im-  
8           porter;

9           (4) evaluates the accuracy of the database on a  
10          regular basis; and

11          (5) takes measures to ensure that duplicate im-  
12          porter of record numbers are not issued to the same  
13          importer.

14          (c) REPORT.—Not later than one year after the date  
15          of the enactment of this Act, the Secretary of Homeland  
16          Security shall submit to the Committee on Finance of the  
17          Senate and the Committee on Ways and Means of the  
18          House of Representatives a report on the importer of  
19          record program established under subsection (a).

20          (d) NUMBER DEFINED.—In this subsection, the term  
21          “number”, with respect to an importer of record, means  
22          a filing identification number described in section 24.5 of  
23          title 19, Code of Federal Regulations (or any cor-  
24          responding similar regulation).

1           **CHAPTER 2—IMPORT HEALTH AND**  
2   **SAFETY**

3   **SEC. 221. INTERAGENCY IMPORT SAFETY WORKING GROUP.**

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

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

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

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

13                   (3) The Secretary of the Treasury.

14                   (4) The Secretary of Commerce.

15                   (5) The Secretary of Agriculture.

16                   (6) The United States Trade Representative.

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

19                   (8) The Commissioner of Food and Drugs.

20                   (9) The Commissioner of U.S. Customs and  
21 Border Protection.

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

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

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

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

7           (1) consulting on the development of the joint  
8           import safety rapid response plan required by sec-  
9           tion 222;

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

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

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

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

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

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

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

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

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



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

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

12 **SEC. 222. JOINT IMPORT SAFETY RAPID RESPONSE PLAN.**

13 (a) IN GENERAL.—Not later than December 31,  
14 2014, the Secretary of Homeland Security, in consultation  
15 with the interagency Import Safety Working Group, shall  
16 develop a plan (to be known as the “joint import safety  
17 rapid response plan”) that sets forth protocols and defines  
18 practices for the U.S. Customs and Border Protection  
19 Agency to use—

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

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

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

6           (1) the statutory and regulatory authorities and  
7 responsibilities of the U.S. Customs and Border Pro-  
8 tection Agency and other Federal agencies in re-  
9 sponding to an incident described in subsection  
10 (a)(1);

11           (2) the protocols and practices to be used by  
12 the Agency when taking action in response to, and  
13 coordinating Federal responses to, such an incident;

14           (3) the measures to be taken by the Agency and  
15 other Federal agencies in recovering from or miti-  
16 gating the effects of actions taken in response to  
17 such an incident after the incident to ensure the re-  
18 sumption of the entry of merchandise into the  
19 United States; and

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

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

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

3 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (ii) foreign governments; and

7 (iii) private sector entities; and

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

11 **SEC. 223. TRAINING.**

12 The Commissioner shall ensure that personnel of the  
13 U.S. Customs and Border Protection Agency assigned to  
14 United States ports of entry are trained to effectively ad-  
15 minister the provisions of this chapter and to otherwise  
16 assist in ensuring the safety of merchandise imported into  
17 the United States and the expeditious entry of such mer-  
18 chandise.

1 **CHAPTER 3—IMPORT-RELATED PROTEC-**  
2 **TION OF INTELLECTUAL PROPERTY**  
3 **RIGHTS**

4 **Subchapter A—National Intellectual**  
5 **Property Rights Coordination Center**

6 **SEC. 231. NATIONAL INTELLECTUAL PROPERTY RIGHTS**  
7 **COORDINATION CENTER.**

8 (a) **ESTABLISHMENT.**—The Secretary of Homeland  
9 Security shall—

10 (1) establish within the U.S. Immigration and  
11 Customs Enforcement Agency a National Intellec-  
12 tual Property Rights Coordination Center; and

13 (2) appoint an Assistant Director to head the  
14 National Intellectual Property Rights Coordination  
15 Center.

16 (b) **DUTIES.**—The Assistant Director of the National  
17 Intellectual Property Rights Coordination Center shall—

18 (1) coordinate the investigation of sources of  
19 merchandise that infringes intellectual property  
20 rights to identify organizations that produce, smug-  
21 gle, or distribute such merchandise;

22 (2) coordinate training with other domestic and  
23 international law enforcement agencies on investiga-  
24 tive best practices—

1           (A) to develop and expand the capability of  
2           such agencies to enforce intellectual property  
3           rights; and

4           (B) to develop metrics to assess whether  
5           the training improved enforcement of intellec-  
6           tual property rights;

7           (3) coordinate, with the U.S. Customs and Bor-  
8           der Protection Agency, activities conducted by the  
9           United States to prevent the importation or expor-  
10          tation of merchandise that infringes intellectual  
11          property rights;

12          (4) support the international interdiction of  
13          merchandise destined for the United States that in-  
14          fringes intellectual property rights;

15          (5) collect and integrate information regarding  
16          infringements of intellectual property rights from do-  
17          mestic and international law enforcement agencies  
18          and other non-Federal sources;

19          (6) develop a single platform or portal to re-  
20          ceive information regarding infringements of intellec-  
21          tual property rights from such agencies and other  
22          sources and a database to organize and search that  
23          information;

1           (7) disseminate information regarding infringe-  
2           ments of intellectual property rights to other Federal  
3           agencies, as appropriate;

4           (8) develop and implement risk-based alert sys-  
5           tems to be shared with the U.S. Customs and Bor-  
6           der Protection Agency to improve the targeting of  
7           persons that repeatedly infringe intellectual property  
8           rights;

9           (9) coordinate with the United States attorneys'  
10          offices to develop expertise in, and assist with the in-  
11          vestigation and prosecution of, crimes relating to the  
12          infringement of intellectual property rights; and

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

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

19               (1) the U.S. Customs and Border Protection  
20               Agency;

21               (2) the Food and Drug Administration;

22               (3) the Department of Justice;

23               (4) the Department of Commerce, including the  
24               United States Patent and Trademark Office;

25               (5) the United States Postal Inspection Service;



1           (6) the Office of the United States Trade Rep-  
2     representative;

3           (7) any Federal, State, local, or international  
4     law enforcement agencies the Director of U.S. Immi-  
5     gration and Customs Enforcement considers appro-  
6     priate; and

7           (8) any other entities the Director considers ap-  
8     propriate.

9     (d) PRIVATE SECTOR OUTREACH.—

10           (1) IN GENERAL.—The Assistant Director of  
11     the National Intellectual Property Rights Coordina-  
12     tion Center shall work with the U.S. Customs and  
13     Border Protection Agency and other Federal agen-  
14     cies to conduct outreach to private sector entities to  
15     determine trends in and methods of infringing intel-  
16     lectual property rights.

17           (2) INFORMATION SHARING.—The Assistant Di-  
18     rector shall share information and best practices  
19     with respect to the enforcement of intellectual prop-  
20     erty rights with private sector entities, as appro-  
21     priate, to coordinate public and private sector efforts  
22     to combat the infringement of intellectual property  
23     rights.

1 **Subchapter B—Amendments to the Tariff Act**  
2 **of 1930**

3 **SEC. 241. PROVISION TO RIGHTS OWNERS OF INFORMA-**  
4 **TION ABOUT AND SAMPLES OF MERCHAN-**  
5 **DISE SUSPECTED OF INFRINGING TRADE-**  
6 **MARKS OR COPYRIGHTS.**

7 The Tariff Act of 1930 is amended by inserting after  
8 section 526 (19 U.S.C. 1526) the following:

9 **“SEC. 526A. PROVISION TO RIGHTS OWNERS OF INFORMA-**  
10 **TION ABOUT AND SAMPLES OF MERCHAN-**  
11 **DISE SUSPECTED OF INFRINGING TRADE-**  
12 **MARKS OR COPYRIGHTS.**

13 “(a) IN GENERAL.—Subject to subsections (c) and  
14 (d), if the Commissioner of U.S. Customs and Border Pro-  
15 tection suspects that merchandise is being imported into  
16 the United States in violation of section 526 or section  
17 602, 1201(a)(1), or 1201(b)(1) of title 17, United States  
18 Code, and determines that the examination or testing of  
19 the merchandise by a person described in subsection (b)  
20 would assist the Commissioner in determining if the mer-  
21 chandise is being imported in violation of that section, the  
22 Commissioner, to permit the person to conduct the exam-  
23 ination and testing—

24 “(1) shall provide to the person information  
25 that appears on the merchandise and its packaging

1 and labels, including unredacted images of the mer-  
2 chandise and its packaging and labels; and

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

6 “(b) PERSON DESCRIBED.—A person described in  
7 this subsection is—

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

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

16 “(3) in the case of merchandise suspected of  
17 being primarily designed or produced for the pur-  
18 pose of circumventing a technological measure that  
19 effectively controls access to a work protected under  
20 that title, and being imported in violation of section  
21 1201(a)(2) of that title, the owner of a copyright in  
22 the work; and

23 “(4) in the case of merchandise suspected of  
24 being primarily designed or produced for the pur-  
25 pose of circumventing protection afforded by a tech-

1 nological measure that effectively protects a right of  
2 an owner of a copyright in a work or a portion of  
3 a work, and being imported in violation of section  
4 1201(b)(1) of that title, the owner of the copyright.

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

9 “(d) EXCEPTION.—The Commissioner of U.S. Cus-  
10 toms and Border Protection may not provide under sub-  
11 section (a) information, photographs, or samples to a per-  
12 son described in subsection (b) if providing such informa-  
13 tion, photographs, or samples would compromise an ongo-  
14 ing law enforcement investigation or national security.”.

15 **SEC. 242. ENFORCEMENT BY THE U.S. CUSTOMS AND BOR-**  
16 **DER PROTECTION AGENCY OF WORKS FOR**  
17 **WHICH A COPYRIGHT REGISTRATION IS**  
18 **PENDING.**

19 Not later than 180 days after the date of the enact-  
20 ment of this Act, the Secretary of Homeland Security shall  
21 establish a process pursuant to which the Commissioner  
22 shall enforce a copyright for which the owner has sub-  
23 mitted an application for registration under title 17,  
24 United States Code, with the Copyright Office of the Li-  
25 brary of Congress to the same extent and in the same

1 manner as if the copyright were registered with the Copy-  
2 right Office, including by sharing information, images,  
3 and samples of merchandise suspected of infringing the  
4 copyright under section 526A of the Tariff Act of 1930,  
5 as added by section 241.

6 **SEC. 243. SEIZURE OF CIRCUMVENTION DEVICES.**

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

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

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

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

13 “(G) the U.S. Customs and Border Protec-  
14 tion Agency determines it is a technology, prod-  
15 uct, service, device, component, or part thereof  
16 the importation of which is prohibited under  
17 subsection (a)(2) or (b)(1) of section 1201 of  
18 title 17, United States Code.”.

19 (b) PUBLICATION.—

20 (1) IN GENERAL.—Except as provided in para-  
21 graph (2), not later than 30 days after seizing mer-  
22 chandise pursuant to subparagraph (G) of section  
23 596(c)(2) of the Tariff Act of 1930, as added by  
24 subsection (a), the Commissioner shall publish on  
25 the Internet website of the U.S. Customs and Bor-

1        der Protection Agency information regarding the  
2        merchandise seized to permit any person to identify  
3        the merchandise and determine whether the mer-  
4        chandise is—

5                (A) a technology, product, service, device,  
6                component, or part thereof described in section  
7                1201(a)(2) of title 17, United States Code,  
8                that—

9                        (i) is primarily designed or produced  
10                        for the purpose of circumventing a techno-  
11                        logical measure that effectively controls ac-  
12                        cess to a work for which the person has a  
13                        copyright that is registered under title 17,  
14                        United States Code, or that is otherwise  
15                        recorded with the Agency;

16                        (ii) has only limited commercially sig-  
17                        nificant purpose or use other than to cir-  
18                        cumvent such a technological measure; or

19                        (iii) is marketed for use in circum-  
20                        venting such a technological measure; or

21                (B) a technology, product, service, device,  
22                component, or part thereof described in section  
23                1201(b)(1) of title 17, United States Code,  
24                that—

1 (i) is primarily designed or produced  
2 for the purpose of circumventing protection  
3 afforded by a technological measure that  
4 effectively protects a right of the person in  
5 a work or a portion of a work that is reg-  
6 istered under title 17, United States Code,  
7 or that is otherwise recorded with the  
8 Agency;

9 (ii) has only limited commercially sig-  
10 nificant purpose or use other than to cir-  
11 cumvent protection afforded by such a  
12 technological measure; or

13 (iii) is marketed for use in circum-  
14 venting protection afforded such a techno-  
15 logical measure.

16 (2) EXCEPTION.—The Commissioner may not  
17 publish information under paragraph (1) if pub-  
18 lishing that information would compromise an ongo-  
19 ing law enforcement investigation or national secu-  
20 rity.

21 (c) APPLICATION.—Not later than 30 days after pub-  
22 lishing the information required under subsection (b) with  
23 respect to seized merchandise, any person that determines  
24 that the seized merchandise is merchandise that infringes  
25 a right of the person as described in subsection (b) (or

1 an agent of such a person) may submit to the U.S. Cus-  
2 toms and Border Protection Agency an application that—

3 (1) identifies the person as a person that holds  
4 such a right (or an agent of such a person); and

5 (2) requests the information described in sub-  
6 section (d).

7 (d) DISCLOSURE.—Subject to subsection (f), the  
8 Commissioner shall disclose to a person that submitted an  
9 application described in subsection (c) with respect to  
10 seized merchandise the following information:

11 (1) The date of importation of the seized mer-  
12 chandise.

13 (2) The United States port of entry at which  
14 the merchandise was seized.

15 (3) A description of the merchandise.

16 (4) The quantity of merchandise seized.

17 (5) The country of origin of the merchandise.

18 (6) The name and address of the foreign manu-  
19 facturer of the merchandise.

20 (7) The name and address of the exporter of  
21 the merchandise.

22 (8) The name and address of the importer of  
23 the merchandise.

24 (e) EXPEDITED DISCLOSURE.—Subject to subsection  
25 (f), the Commissioner may, on an expedited basis, disclose



1 information pursuant to subsection (d) with respect to  
2 merchandise seized pursuant to subparagraph (G) of sec-  
3 tion 526(c)(2) of the Tariff Act of 1930, as added by sub-  
4 section (a), and with respect to which information is pub-  
5 lished pursuant to subsection (b), to a person that has  
6 previously submitted an application under subsection (c)  
7 with respect to such merchandise.

8 (f) LIMITATION ON DISCLOSURE.—The Commis-  
9 sioner may not disclose information under subsection (d)  
10 or (e) with respect to merchandise seized pursuant to sub-  
11 paragraph (G) of section 526(c)(2) of the Tariff Act of  
12 1930, as added by subsection (a), until the Commissioner  
13 has made a final determination with respect to whether  
14 the merchandise is a technology, product, service, device,  
15 component, or part thereof the importation of which is  
16 prohibited under subsection (a)(2) or (b)(1) of section  
17 1201 of title 17, United States Code.

## 18 **Subchapter C—Other Matters**

### 19 **SEC. 251. DEFINITION OF INTELLECTUAL PROPERTY** 20 **RIGHTS.**

21 In this subchapter, the term “intellectual property  
22 rights” refers to copyrights, trademarks, and other forms  
23 of intellectual property rights that are enforced by the  
24 U.S. Customs and Border Protection Agency or the U.S.  
25 Immigration and Customs Enforcement Agency.

1 **SEC. 252. JOINT STRATEGIC PLAN FOR THE ENFORCEMENT**  
2 **OF INTELLECTUAL PROPERTY RIGHTS.**

3 The Commissioner and the Director of U.S. Immigra-  
4 tion and Customs Enforcement shall include in the joint  
5 strategic plan on trade facilitation and trade enforcement  
6 required by section 123A of the Customs and Trade Act  
7 of 1990, as amended by section 131—

8 (1) a description of the efforts of the Depart-  
9 ment of Homeland Security to enforce intellectual  
10 property rights;

11 (2) a list of the 10 United States ports of entry  
12 at which the U.S. Customs and Border Protection  
13 Agency has seized the most merchandise, both by  
14 volume and by value, that infringes intellectual prop-  
15 erty rights during the most recent 2-year period for  
16 which data are available; and

17 (3) a recommendation for the optimal allocation  
18 of personnel, resources, and technology to ensure  
19 that the U.S. Customs and Border Protection Agen-  
20 cy and the U.S. Immigration and Customs Enforce-  
21 ment Agency are adequately enforcing intellectual  
22 property rights.

23 **SEC. 253. PERSONNEL DEDICATED TO THE ENFORCEMENT**  
24 **OF INTELLECTUAL PROPERTY RIGHTS.**

25 (a) **PERSONNEL OF THE U.S. CUSTOMS AND BORDER**  
26 **PROTECTION AGENCY.**—The Commissioner and the Di-

1 rector of U.S. Immigration and Customs Enforcement  
2 shall ensure that sufficient personnel are assigned  
3 throughout the U.S. Customs and Border Protection  
4 Agency and the U.S. Immigration and Customs Enforce-  
5 ment Agency, respectively, who have responsibility for pre-  
6 venting the importation of merchandise that infringes in-  
7 tellectual property rights into the United States.

8 (b) STAFFING OF NATIONAL INTELLECTUAL PROP-  
9 erty Rights Coordination Center.—The Commis-  
10 sioner shall—

11 (1) assign not fewer than 3 full-time employees  
12 of the U.S. Customs and Border Protection Agency  
13 to the National Intellectual Property Rights Coordi-  
14 nation Center established under section 231; and

15 (2) ensure that sufficient personnel are as-  
16 signed to United States ports of entry to carry out  
17 the directives of the Center.

18 **SEC. 254. TRAINING WITH RESPECT TO THE ENFORCEMENT**  
19 **OF INTELLECTUAL PROPERTY RIGHTS.**

20 (a) TRAINING.—The Commissioner shall ensure that  
21 officers of the U.S. Customs and Border Protection Agen-  
22 cy are trained to effectively detect and identify merchan-  
23 dise destined for the United States that infringes intellec-  
24 tual property rights, including through the use of tech-  
25 nologies identified under subsection (c).

1 (b) CONSULTATION WITH PRIVATE SECTOR.—The  
2 Commissioner shall consult with private sector entities to  
3 better identify opportunities for collaboration between the  
4 U.S. Customs and Border Protection Agency and such en-  
5 tities with respect to training for officers of the Agency  
6 to enforce intellectual property rights.

7 (c) IDENTIFICATION OF NEW TECHNOLOGIES.—In  
8 consultation with private sector entities, the Commissioner  
9 shall identify—

10 (1) technologies with the cost-effective capa-  
11 bility to detect and identify merchandise at United  
12 States ports of entry that infringes intellectual prop-  
13 erty rights; and

14 (2) cost-effective programs for training officers  
15 of the U.S. Customs and Border Protection Agency  
16 to use such technologies.

17 (d) DONATIONS OF TECHNOLOGY.—Not later than  
18 180 days after the date of the enactment of this Act, the  
19 Commissioner shall promulgate regulations to enable the  
20 U.S. Customs and Border Protection Agency to receive do-  
21 nations of hardware, software, equipment, and similar  
22 technologies, and to accept training and other support  
23 services from private sector entities, for the purpose of en-  
24 forcing intellectual property rights.

1 **SEC. 255. INFORMATION FOR TRAVELERS REGARDING VIO-**  
2 **LATIONS OF INTELLECTUAL PROPERTY**  
3 **RIGHTS.**

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

12 (b) DECLARATION FORMS.—The Commissioner shall  
13 ensure that all versions of Declaration Form 6059B of the  
14 U.S. Customs and Border Protection Agency, or a suc-  
15 cessor form, printed on or after the date that is 30 days  
16 after the date of the enactment of this Act include a writ-  
17 ten warning to inform travelers arriving in the United  
18 States that importation of merchandise into the United  
19 States that infringes intellectual property rights may sub-  
20 ject travelers to civil or criminal penalties and may pose  
21 serious risks to safety or health.

22 **SEC. 256. INTERNATIONAL COOPERATION AND INFORMA-**  
23 **TION SHARING.**

24 (a) COOPERATION.—The Secretary of Homeland Se-  
25 curity shall coordinate with the competent law enforce-  
26 ment and customs authorities of foreign countries, includ-

1 ing by sharing information relevant to enforcement ac-  
2 tions, to enhance the efforts of United States and such  
3 authorities to enforce intellectual property rights.

4 (b) TECHNICAL ASSISTANCE.—The Secretary of  
5 Homeland Security shall provide technical assistance to  
6 competent law enforcement and customs authorities of for-  
7 eign countries to enhance the ability of such authorities  
8 to enforce intellectual property rights.

9 (c) INTERAGENCY COLLABORATION.—The Commis-  
10 sioner and the Director of U.S. Immigration and Customs  
11 Enforcement shall lead interagency efforts to collaborate  
12 with law enforcement and customs authorities of foreign  
13 countries to enforce intellectual property rights.

14 **SEC. 257. SENSE OF CONGRESS REGARDING RECORDATION**  
15 **PROCESS.**

16 It is the sense of Congress that the Commissioner  
17 should work with the Under Secretary for Intellectual  
18 Property and Director of the United States Patent and  
19 Trademark Office of the Department of Commerce and  
20 the Register of Copyrights of the Library of Congress to  
21 consider a system under which—

22 (1) a trademark may be recorded with the U.S.  
23 Customs and Border Protection Agency simulta-  
24 neously with the issuance of trademark registration

1 by the United States Patent and Trademark Office;  
2 and

3 (2) a copyright may be recorded with the U.S.  
4 Customs and Border Protection Agency simulta-  
5 neously with the registration of a copyright by the  
6 Register of Copyrights.

7 **SEC. 258. REPORT ON INTELLECTUAL PROPERTY RIGHTS**  
8 **ENFORCEMENT.**

9 Not later than June 30, 2014, and annually there-  
10 after, the Commissioner and the Director of U.S. Immi-  
11 gration and Customs Enforcement shall jointly submit to  
12 the Committee on Finance of the Senate and the Com-  
13 mittee on Ways and Means of the House of Representa-  
14 tives a report that contains the following:

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

17 (A) The number of referrals from the U.S.  
18 Customs and Border Protection Agency to the  
19 U.S. Immigration and Customs Enforcement  
20 Agency relating to infringements of intellectual  
21 property rights during the preceding year.

22 (B) The number of investigations relating  
23 to the infringement of intellectual property  
24 rights referred by the U.S. Immigration and  
25 Customs Enforcement Agency to a United

1 States Attorney's office for prosecution and the  
2 United States Attorneys' offices to which those  
3 investigations were referred.

4 (C) The number of such investigations ac-  
5 cepted by each such United States Attorney's  
6 office and the status or outcome of each such  
7 investigation.

8 (D) The number of such investigations  
9 that resulted in the imposition of civil or crimi-  
10 nal penalties.

11 (E) A description of the efforts of the U.S.  
12 Custom and Border Protection Agency and the  
13 U.S. Immigration and Customs Enforcement  
14 Agency to improve the success rates of inves-  
15 tigation and prosecutions relating to the in-  
16 fringement of intellectual property rights.

17 (2) An estimate of the average time required by  
18 the Office of Trade of the U.S. Customs and Border  
19 Protection Agency to respond to a request from port  
20 personnel for advice with respect to whether mer-  
21 chandise detained by the Agency infringed intellec-  
22 tual property rights, distinguished by types of intel-  
23 lectual property rights infringed.

24 (3) A summary of the outreach efforts of the  
25 U.S. Customs and Border Protection Agency and



1 the U.S. Immigration and Customs Enforcement  
2 Agency with respect to—

3 (A) the interdiction and investigation of,  
4 and the sharing of information between those  
5 Agencies and other Federal agencies to prevent  
6 the infringement of intellectual property rights;

7 (B) collaboration with private sector enti-  
8 ties—

9 (i) to identify trends in the infringe-  
10 ment of, and technologies that infringe, in-  
11 tellectual property rights;

12 (ii) to identify opportunities for en-  
13 hanced training of officers of those Agen-  
14 cies; and

15 (iii) to develop best practices to en-  
16 force intellectual property rights; and

17 (C) coordination with foreign governments  
18 and international organizations with respect to  
19 the enforcement of intellectual property rights.

20 (4) A summary of the efforts of the U.S. Cus-  
21 toms and Border Protection Agency and the U.S.  
22 Immigration and Customs Enforcement Agency to  
23 address the challenges with respect to the enforce-  
24 ment of intellectual property rights presented by  
25 Internet commerce and the transit of small packages

1 and an identification of the volume, value, and type  
2 of merchandise seized for infringing intellectual  
3 property rights as a result of such efforts.

4 (5) A summary of training relating to the en-  
5 forcement of intellectual property rights conducted  
6 under section 254 and expenditures for such train-  
7 ing.

8 **CHAPTER 4—COORDINATION OF TRADE**  
9 **ENFORCEMENT PRIORITIES**

10 **SEC. 261. ESTABLISHMENT OF PRIORITY TRADE ENFORCE-**  
11 **MENT COORDINATION CENTERS.**

12 The Secretary of Homeland Security may establish  
13 in the U.S. Immigration and Customs Enforcement Agen-  
14 cy additional enforcement coordination centers—

15 (1) to address the issues relating to trade en-  
16 forcement designated as priority trade issues in the  
17 joint strategic plan on trade facilitation and trade  
18 enforcement required by section 123A of the Cus-  
19 toms and Trade Act of 1990, as added by section  
20 131; and

21 (2) that are modeled on the structure of the  
22 National Intellectual Property Rights Coordination  
23 Center established under section 231.

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

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Enforcing Orders and  
 6 Reducing Customs Evasion Act of 2013”.

7 **SEC. 302. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
 8 **EVASION OF ANTIDUMPING AND COUNTER-**  
 9 **VAILING DUTY ORDERS.**

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

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

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

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

20 “(2) **COMMISSIONER.**—The term ‘Commis-  
 21 sioner’ means the Commissioner of U.S. Customs  
 22 and Border Protection, acting pursuant to the dele-  
 23 gation by the Secretary of the Treasury of the au-  
 24 thority of the Secretary with respect to customs rev-

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

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

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

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

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

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

16 “(5) EVASION.—

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

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

4           “(B) EXCEPTION FOR CLERICAL ERROR.—

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

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

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

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

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

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

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

20 “(b) INVESTIGATIONS.—

21 “(1) IN GENERAL.—Not later than 10 business  
22 days after receiving an allegation described in para-  
23 graph (2) or a referral described in paragraph (3),  
24 the Commissioner shall initiate an investigation if  
25 the Commissioner determines that the information

1 provided in the allegation or the referral, as the case  
2 may be, reasonably suggests that covered merchan-  
3 dise has been entered into the customs territory of  
4 the United States through evasion.

5 “(2) ALLEGATION DESCRIBED.—An allegation  
6 described in this paragraph is an allegation that a  
7 person has entered covered merchandise into the  
8 customs territory of the United States through eva-  
9 sion that is—

10 “(A) filed with the Commissioner by a per-  
11 son that is a producer in the United States of  
12 merchandise—

13 “(i) that is like, or in the absence of  
14 like, most similar in characteristics and  
15 uses with, such covered merchandise; or

16 “(ii) into which merchandise described  
17 in clause (i) is incorporated; and

18 “(B) accompanied by information reason-  
19 ably available to the person that filed the alle-  
20 gation.

21 “(3) REFERRAL DESCRIBED.—A referral de-  
22 scribed in this paragraph is information submitted  
23 to the Commissioner by any other Federal agency,  
24 including the Department of Commerce or the  
25 United States International Trade Commission, that

1 reasonably suggests that a person has entered cov-  
2 ered merchandise into the customs territory of the  
3 United States through evasion.

4 “(4) CONSOLIDATION OF ALLEGATIONS AND  
5 REFERRALS.—

6 “(A) IN GENERAL.—The Commissioner  
7 may consolidate multiple allegations described  
8 in paragraph (2) and referrals described in  
9 paragraph (3) into a single investigation if the  
10 Commissioner determines it is appropriate to do  
11 so.

12 “(B) EFFECT ON TIMING REQUIRE-  
13 MENTS.—If the Commissioner consolidates mul-  
14 tiple allegations or referrals into a single inves-  
15 tigation under subparagraph (A), the date on  
16 which the Commissioner receives the first such  
17 allegation or referral shall be used for purposes  
18 of the requirement under paragraph (1) with  
19 respect to the timing of the initiation of the in-  
20 vestigation.

21 “(5) INFORMATION-SHARING TO PROTECT  
22 HEALTH AND SAFETY.—If, during the course of con-  
23 ducting an investigation under paragraph (1) with  
24 respect to covered merchandise, the Commissioner  
25 has reason to suspect that such covered merchandise



1 may pose a health or safety risk to consumers, the  
2 Commissioner shall provide, as appropriate, informa-  
3 tion to the appropriate Federal agencies for pur-  
4 poses of mitigating the risk.

5 “(c) DETERMINATIONS.—

6 “(1) IN GENERAL.—Not later than 270 cal-  
7 endar days after the date on which the Commis-  
8 sioner initiates an investigation under subsection (b)  
9 with respect to covered merchandise, the Commis-  
10 sioner shall make a determination, based on sub-  
11 stantial evidence, with respect to whether such cov-  
12 ered merchandise was entered into the customs terri-  
13 tory of the United States through evasion.

14 “(2) AUTHORITY TO COLLECT AND VERIFY AD-  
15 DITIONAL INFORMATION.—In making a determina-  
16 tion under paragraph (1) with respect to covered  
17 merchandise, the Commissioner may collect such ad-  
18 ditional information as is necessary to make the de-  
19 termination through such methods as the Commis-  
20 sioner considers appropriate, including by—

21 “(A) issuing a questionnaire with respect  
22 to such covered merchandise to—

23 “(i) a person that filed an allegation  
24 under paragraph (2) of subsection (b) that  
25 resulted in the initiation of an investiga-

1           tion under paragraph (1) of that sub-  
2           section with respect to such covered mer-  
3           chandise;

4           “(ii) a person alleged to have entered  
5           such covered merchandise into the customs  
6           territory of the United States through eva-  
7           sion;

8           “(iii) a person that is a foreign pro-  
9           ducer or exporter of such covered merchan-  
10          dise; or

11          “(iv) the government of a country  
12          from which such covered merchandise was  
13          exported; and

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

16          “(3) ADVERSE INFERENCE.—If the Commis-  
17          sioner finds that a person described in clause (i),  
18          (ii), or (iii) of paragraph (2)(A) has failed to cooper-  
19          ate by not acting to the best of the person’s ability  
20          to comply with a request for information, the Com-  
21          missioner may, in making a determination under  
22          paragraph (1), use an inference that is adverse to  
23          the interests of that person in selecting from among  
24          the facts otherwise available to make the determina-  
25          tion.

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

5           “(A) shall provide to each person that filed  
6 an allegation under paragraph (2) of subsection  
7 (b) that resulted in the initiation of an inves-  
8 tigation under paragraph (1) of that subsection  
9 with respect to such covered merchandise a no-  
10 tification of the determination and may, in ad-  
11 dition, include an explanation of the basis for  
12 the determination; and

13           “(B) may provide to importers, in such  
14 manner as the Commissioner determines appro-  
15 priate, information discovered in the investiga-  
16 tion that the Commissioner determines will help  
17 educate importers with respect to importing  
18 merchandise into the customs territory of the  
19 United States in accordance with all applicable  
20 laws and regulations.

21           “(d) EFFECT OF DETERMINATIONS.—

22           “(1) IN GENERAL.—If the Commissioner makes  
23 a determination under subsection (c) that covered  
24 merchandise was entered into the customs territory

1 of the United States through evasion, the Commis-  
2 sioner shall—

3 “(A)(i) suspend the liquidation of unliqui-  
4 dated entries of such covered merchandise that  
5 are subject to the determination and that enter  
6 on or after the date of the initiation of the in-  
7 vestigation under subsection (b) with respect to  
8 such covered merchandise and on or before the  
9 date of the determination; or

10 “(ii) if the Commissioner has already sus-  
11 pended the liquidation of such entries pursuant  
12 to subsection (e)(1), continue to suspend the  
13 liquidation of such entries;

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

16 “(i) extend the period for liquidating  
17 unliquidated entries of such covered mer-  
18 chandise that are subject to the determina-  
19 tion and that entered before the date of  
20 the initiation of the investigation; or

21 “(ii) if the Commissioner has already  
22 extended the period for liquidating such  
23 entries pursuant to subsection (e)(1), con-  
24 tinue to extend the period for liquidating  
25 such entries;

1           “(C) notify the administering authority of  
2 the determination and request that the admin-  
3 istering authority—

4           “(i) identify the applicable anti-  
5 dumping or countervailing duty assessment  
6 rates for entries described in subpara-  
7 graphs (A) and (B); or

8           “(ii) if no such assessment rate for  
9 such an entry is available at the time,  
10 identify the applicable cash deposit rate to  
11 be applied to the entry, with the applicable  
12 antidumping or countervailing duty assess-  
13 ment rate to be provided as soon as that  
14 rate becomes available;

15           “(D) require the posting of cash deposits  
16 and assess duties on entries described in sub-  
17 paragraphs (A) and (B) in accordance with the  
18 instructions received from the administering au-  
19 thority under paragraph (2); and

20           “(E) take such additional enforcement  
21 measures as the Commissioner determines ap-  
22 propriate, such as—

23           “(i) initiating proceedings under sec-  
24 tion 592 or 596;

1           “(ii) implementing, in consultation  
2           with the relevant Federal agencies, rule  
3           sets or modifications to rules sets for iden-  
4           tifying, particularly through the Auto-  
5           mated Targeting System and the Auto-  
6           mated Commercial Environment, import-  
7           ers, other parties, and merchandise that  
8           may be associated with evasion;

9           “(iii) requiring, with respect to mer-  
10          chandise for which the importer has re-  
11          peatedly provided incomplete or erroneous  
12          entry summary information in connection  
13          with determinations of evasion, the im-  
14          porter to deposit estimated duties at the  
15          time of entry; and

16          “(iv) referring the record in whole or  
17          in part to the U.S. Immigration and Cus-  
18          toms Enforcement Agency for civil or  
19          criminal investigation.

20           “(2) COOPERATION OF ADMINISTERING AU-  
21          THORITY.—

22           “(A) IN GENERAL.—Upon receiving a noti-  
23          fication from the Commissioner under para-  
24          graph (1)(C), the administering authority shall  
25          promptly provide to the Commissioner the ap-

1 plicable cash deposit rates and antidumping or  
2 countervailing duty assessment rates and any  
3 necessary liquidation instructions.

4 “(B) SPECIAL RULE FOR CASES IN WHICH  
5 THE PRODUCER OR EXPORTER IS UNKNOWN.—

6 If the Commissioner and the administering au-  
7 thority are unable to determine the producer or  
8 exporter of the merchandise with respect to  
9 which a notification is made under paragraph  
10 (1)(C), the administering authority shall iden-  
11 tify, as the applicable cash deposit rate or anti-  
12 dumping or countervailing duty assessment  
13 rate, the cash deposit or duty (as the case may  
14 be) in the highest amount applicable to any  
15 producer or exporter, including the ‘all-others’  
16 rate of the merchandise subject to an anti-  
17 dumping order or countervailing duty order  
18 under section 736 or 706, respectively, or a  
19 finding issued under the Antidumping Act,  
20 1921, or any administrative review conducted  
21 under section 751.

22 “(e) INTERIM MEASURES.—Not later than 90 cal-  
23 endar days after initiating an investigation under sub-  
24 section (b) with respect to covered merchandise, the Com-  
25 missioner shall decide based on the investigation if there

1 is a reasonable suspicion that such covered merchandise  
2 was entered into the customs territory of the United  
3 States through evasion and, if the Commissioner decides  
4 there is such a reasonable suspicion, the Commissioner  
5 shall—

6           “(1) suspend the liquidation of each unliqui-  
7 dated entry of such covered merchandise that en-  
8 tered on or after the date of the initiation of the in-  
9 vestigation;

10           “(2) pursuant to the Commissioner’s authority  
11 under section 504(b), extend the period for liqui-  
12 dating each unliquidated entry of such covered mer-  
13 chandise that entered before the date of the initi-  
14 ation of the investigation; and

15           “(3) pursuant to the Commissioner’s authority  
16 under section 623, take such additional measures as  
17 the Commissioner determines necessary to protect  
18 the revenue of the United States, including requiring  
19 a single transaction bond or additional security or  
20 the posting of a cash deposit with respect to such  
21 covered merchandise.

22           “(f) ADMINISTRATIVE REVIEW.—

23           “(1) IN GENERAL.—Not later than 30 business  
24 days after the Commissioner makes a determination  
25 under subsection (c) with respect to whether covered



1 merchandise was entered into the customs territory  
2 of the United States through evasion, a person de-  
3 termined to have entered such covered merchandise  
4 through evasion or a person that filed an allegation  
5 under paragraph (2) of subsection (b) that resulted  
6 in the initiation of an investigation under paragraph  
7 (1) of that subsection with respect to such covered  
8 merchandise may file an appeal with the Commis-  
9 sioner for de novo review of the determination.

10 “(2) TIMELINE FOR REVIEW.—Not later than  
11 60 business days after an appeal of a determination  
12 is filed under paragraph (1), the Commissioner shall  
13 complete the review of the determination.

14 “(g) JUDICIAL REVIEW.—

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

1       chandise may commence a civil action in the United  
2       States Court of International Trade by filing concur-  
3       rently a summons and complaint contesting any fac-  
4       tual findings or legal conclusions upon which the de-  
5       termination is based.

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

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

19              (b) CONFORMING AMENDMENT.—Section 1581(c) of  
20      title 28, United States Code, is amended by inserting “or  
21      517” after “516A”.

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

1 (d) REGULATIONS.—Not later than the date that is  
2 180 days after the date of the enactment of this Act, the  
3 Secretary of the Treasury shall prescribe such regulations  
4 as may be necessary to implement the amendments made  
5 by this section.

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

12 **SEC. 303. ANNUAL REPORT ON PREVENTION AND INVES-**  
13 **TIGATION OF EVASION OF ANTIDUMPING**  
14 **AND COUNTERVAILING DUTY ORDERS.**

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

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

3 (1) for the calendar year preceding the submis-  
4 sion of the report—

5 (A) a summary of the efforts of the U.S.  
6 Customs and Border Protection Agency to pre-  
7 vent and investigate the entry of covered mer-  
8 chandise into the customs territory of the  
9 United States through evasion;

10 (B) the number of allegations of evasion  
11 received under subsection (b) of section 517 of  
12 the Tariff Act of 1930, as added by section  
13 302, and the number of such allegations result-  
14 ing in investigations by the U.S. Customs and  
15 Border Protection Agency or any other agency;

16 (C) a summary of investigations initiated  
17 under subsection (b) of such section 517, in-  
18 cluding—

19 (i) the number and nature of the in-  
20 vestigations initiated, conducted, and com-  
21 pleted; and

22 (ii) the resolution of each completed  
23 investigation;

24 (D) the number of investigations initiated  
25 under that subsection not completed during the

1 time provided for making determinations under  
2 subsection (c) of such section 517 and an expla-  
3 nation for why the investigations could not be  
4 completed on time;

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

11 (F) with respect to each such investigation  
12 that led to the imposition of a penalty, the  
13 amount of the penalty;

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

19 (H) the amount of antidumping and coun-  
20 tervailing duties collected as a result of any in-  
21 vestigations or other actions by the U.S. Cus-  
22 toms and Border Protection Agency or any  
23 other agency;

24 (I) a description of the allocation of per-  
25 sonnel and other resources of the U.S. Customs

1 and Border Protection Agency and the U.S. Im-  
2 migration and Customs Enforcement Agency to  
3 prevent and investigate evasion, including any  
4 assessments conducted regarding the allocation  
5 of such personnel and resources; and

6 (J) a description of training conducted to  
7 increase expertise and effectiveness in the pre-  
8 vention and investigation of evasion; and

9 (2) a description of processes and procedures of  
10 the U.S. Customs and Border Protection Agency to  
11 prevent and investigate evasion, including—

12 (A) the specific guidelines, policies, and  
13 practices used by the Agency to ensure that al-  
14 legations of evasion are promptly evaluated and  
15 acted upon in a timely manner;

16 (B) an evaluation of the efficacy of those  
17 guidelines, policies, and practices;

18 (C) an identification of any changes since  
19 the last report required by this section, if any,  
20 that have materially improved or reduced the  
21 effectiveness of the Agency in preventing and  
22 investigating evasion;

23 (D) a description of the development and  
24 implementation of policies for the application of  
25 single entry and continuous bonds for entries of

1 covered merchandise to sufficiently protect the  
2 collection of antidumping and countervailing  
3 duties commensurate with the level of risk of  
4 not collecting those duties;

5 (E) a description of the processes and pro-  
6 cedures for increased cooperation and informa-  
7 tion sharing with the Department of Commerce,  
8 the U.S. Immigration and Customs Enforce-  
9 ment Agency, and any other relevant Federal  
10 agencies to prevent and investigate evasion; and

11 (F) an identification of any recommended  
12 policy changes for other Federal agencies or  
13 legislative changes to improve the effectiveness  
14 of the U.S. Customs and Border Protection  
15 Agency in preventing and investigating evasion.

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

19 (1) a description of the type of merchandise  
20 with respect to which investigations were initiated  
21 under subsection (b) of section 517 of the Tariff Act  
22 of 1930, as added by section 302;

23 (2) the amount of additional duties determined  
24 to be owed as a result of such investigations and the  
25 amount of such duties that were collected;

1           (3) an identification of the countries of origin  
2 of covered merchandise determined under subsection  
3 (c) of such section 517 to be entered into the cus-  
4 toms territory of the United States through evasion;  
5 and

6           (4) a description of the types of measures used  
7 by the U.S. Customs and Border Protection Agency  
8 to prevent and investigate evasion.

9           (d) DEFINITIONS.—In this section, the terms “cov-  
10 ered merchandise” and “evasion” have the meanings given  
11 those terms in section 517(a) of the Tariff Act of 1930,  
12 as added by section 302.

## 13           **TITLE IV—MISCELLANEOUS** 14           **PROVISIONS**

### 15           **SEC. 401. CONSULTATION ON TRADE AND CUSTOMS REV-** 16           **ENUE FUNCTIONS.**

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

19           (1) in paragraph (1), by striking “on Depart-  
20 ment policies and actions that have” and inserting  
21 “not later than 30 days after proposing, and not  
22 later than 30 days before finalizing, any Department  
23 policies, initiatives, or actions that will have”; and

24           (2) in paragraph (2)(A), by striking “not later  
25 than 30 days prior to the finalization of” and insert-



1 ing “not later than 60 days before proposing, and  
2 not later than 60 days before finalizing,”.

3 **SEC. 402. DRAWBACK SIMPLIFICATION.**

4 (a) IN GENERAL.—Section 313 of the Tariff Act of  
5 1930 (19 U.S.C. 1313) is amended to read as follows:

6 **“SEC. 313. DRAWBACK.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) BILL OF MATERIALS; FORMULA.—The  
9 terms ‘bill of materials’ and ‘formula’ mean records  
10 kept in the ordinary course of business that identify  
11 each component incorporated into merchandise or  
12 that identify the quantity of each element, material,  
13 chemical, mixture, or other substance incorporated  
14 into merchandise.

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

18 “(3) DESTROYED MERCHANDISE.—The term  
19 ‘destroyed merchandise’ means merchandise that has  
20 undergone destruction.

21 “(4) DESTRUCTION.—The term ‘destruction’  
22 means a process by which merchandise loses all com-  
23 mercial value, other than the value of any material  
24 that may be recovered when the merchandise is de-  
25 stroyed.

1           “(5) DIRECT IDENTIFICATION.—The term ‘di-  
2       rect identification’ means the identification of mer-  
3       chandise that is exported or destroyed to claim  
4       drawback with respect to imported merchandise as  
5       the imported merchandise or merchandise into which  
6       the imported merchandise is incorporated using—

7           “(A) the serial number or other unique  
8       identifier of the exported merchandise or de-  
9       stroyed merchandise and the imported merchan-  
10      dise; or

11          “(B) such accounting methods as are pro-  
12      vided for by regulation by the Commissioner.

13          “(6) DIRECTLY.—The term ‘directly’ means a  
14      transfer of merchandise from one person to another  
15      person without any intermediate transfer.

16          “(7) FUNGIBLE.—The term ‘fungible’ means,  
17      with respect to merchandise, merchandise that is  
18      interchangeable for commercial purposes with other  
19      merchandise and has properties that are essentially  
20      identical to the properties of the other merchandise.

21          “(8) GOOD SUBJECT TO CHILE FTA DRAW-  
22      BACK.—The term ‘good subject to Chile FTA draw-  
23      back’ has the meaning given that term in section  
24      203(a) of the United States-Chile Free Trade Agree-  
25      ment Implementation Act (19 U.S.C. 3805 note).

1           “(9) GOOD SUBJECT TO NAFTA DRAWBACK.—  
2           The term ‘good subject to NAFTA drawback’ has  
3           the meaning given that term in section 203(a) of the  
4           North American Free Trade Agreement Implemen-  
5           tation Act (19 U.S.C. 3333(a)).

6           “(10) HTS.—The term ‘HTS’ means the Har-  
7           monized Tariff Schedule of the United States.

8           “(11) INCORPORATED.—The term ‘incor-  
9           porated’ means any operation by which merchandise  
10          becomes classifiable in a different 8-digit HTS sub-  
11          heading number.

12          “(12) INDIRECTLY.—The term ‘indirectly’  
13          means a transfer of merchandise from one person to  
14          another person with one or more intermediate trans-  
15          fers.

16          “(13) LINE ITEM.—

17                 “(A) IMPORTED MERCHANDISE.—The term  
18                 ‘line item’, with respect to imported merchan-  
19                 dise, means the identification, in an entry filed  
20                 pursuant to section 484, of merchandise im-  
21                 ported from one country by net quantity, en-  
22                 tered value, 8-digit HTS subheading number,  
23                 and applicable duties, taxes, and fees.

24                 “(B) EXPORTED MERCHANDISE.—The  
25                 term ‘line item’, with respect to exported mer-

1           chandise, means the identification of the mer-  
2           chandise by 8-digit HTS subheading number or  
3           Schedule B number, declared value, and quan-  
4           tity.

5           “(14) NAFTA COUNTRY.—The term ‘NAFTA  
6           country’ has the meaning given that term in section  
7           2 of the North American Free Trade Agreement Im-  
8           plementation Act (19 U.S.C. 3301).

9           “(15) SCHEDULE B.—The term ‘Schedule B’  
10          means the Department of Commerce Schedule B,  
11          Statistical Classification of Domestic and Foreign  
12          Commodities Exported from the United States.

13          “(16) SUBSTITUTE MERCHANDISE.—The term  
14          ‘substitute merchandise’ means merchandise that is  
15          substituted for other merchandise for drawback pur-  
16          poses pursuant to subsection (g).

17          “(17) VESSEL.—The term ‘vessel’ includes ves-  
18          sels, parts of vessels, aircraft, and parts of aircraft.

19          “(b) ELIGIBILITY FOR DRAWBACK.—

20                 “(1) IN GENERAL.—A person described in sub-  
21                 section (c) is eligible for drawback of duties, taxes,  
22                 and fees imposed under Federal law paid on im-  
23                 ported merchandise in an amount determined under  
24                 subsection (h) if—

1           “(A) the imported merchandise meets the  
2 requirements of subsection (d);

3           “(B)(i) merchandise that meets the re-  
4 quirements of subsection (e) is exported; or

5           “(ii) merchandise that meets the require-  
6 ments of subsection (f) is destroyed; and

7           “(C) the person files a claim for drawback  
8 with respect to the imported merchandise in ac-  
9 cordance with subsection (i).

10           “(2) MULTIPLE DRAWBACK CLAIMS.—If a per-  
11 son claims drawback under paragraph (1) with re-  
12 spect to imported merchandise based on exported  
13 merchandise or destroyed merchandise, the exported  
14 merchandise or destroyed merchandise (as the case  
15 may be) may not be the basis of any other claim for  
16 drawback, except that appropriate credit and deduc-  
17 tions for claims covering components or ingredients  
18 of exported merchandise or destroyed merchandise  
19 shall be made in determining the amount of draw-  
20 back under subsection (h).

21           “(c) PERSONS ELIGIBLE TO CLAIM DRAWBACK.—

22           “(1) IN GENERAL.—A person may claim draw-  
23 back under this section if the person—

24           “(A)(i) imports the merchandise on which  
25 the claim is based; or

1           “(ii) obtains the authorization of the im-  
2           porter to claim the drawback; and

3           “(B)(i) exports or destroys the merchan-  
4           dise that was exported or destroyed to claim  
5           drawback with respect to the imported mer-  
6           chandise; or

7           “(ii) obtains the authorization of the ex-  
8           porter or the person that destroyed the mer-  
9           chandise (as the case may be) to claim draw-  
10          back.

11          “(2) LIABILITY FOR CLAIMS.—

12           “(A) IN GENERAL.—Any person making a  
13           claim for drawback with respect to imported  
14           merchandise shall be liable for the full amount  
15           of the drawback claimed against the imported  
16           merchandise.

17           “(B) LIABILITY OF IMPORTERS.—An im-  
18           porter shall be liable for any drawback claim  
19           made by another person with respect to im-  
20           ported merchandise in an amount equal to the  
21           lesser of—

22           “(i) the amount of duties, taxes, and  
23           fees that the person claimed with respect  
24           to the imported merchandise; or

1           “(ii) the amount of duties, taxes, and  
2           fees that the importer authorized the other  
3           person to claim with respect to the im-  
4           ported merchandise.

5           “(C) JOINT AND SEVERAL LIABILITY.—  
6           Persons described in subparagraph (A) and (B)  
7           shall be jointly and severally liable for the  
8           amount described in subparagraph (B).

9           “(D) ORDER OF RECOVERY.—The Sec-  
10          retary of the Treasury shall seek to recover the  
11          amount of the drawback from a person de-  
12          scribed in subparagraph (A) before seeking re-  
13          covery from an importer described in subpara-  
14          graph (B).

15          “(d) REQUIREMENTS FOR IMPORTED MERCHAN-  
16          DISE.—Imported merchandise meets the requirements of  
17          this subsection if—

18                 “(1) all applicable duties, taxes, and fees have  
19                 been paid on the imported merchandise; and

20                 “(2) the imported merchandise is entered or  
21                 withdrawn from warehouse for consumption.

22          “(e) REQUIREMENTS FOR EXPORTED MERCHAN-  
23          DISE.—

1           “(1) IN GENERAL.—Exported merchandise  
2 meets the requirements of this subsection if the ex-  
3 ported merchandise is—

4                   “(A) the imported merchandise;

5                   “(B) merchandise that is substituted for  
6 the imported merchandise pursuant to sub-  
7 section (g);

8                   “(C) merchandise into which the imported  
9 merchandise or substitute merchandise is incor-  
10 porated; or

11                   “(D) merchandise that is substituted, pur-  
12 suant to subsection (g), for merchandise into  
13 which the imported merchandise or substitute  
14 merchandise is incorporated.

15           “(2) SPECIAL RULES WITH RESPECT TO INCOR-  
16 PORATION OF MERCHANDISE INTO OTHER MER-  
17 CHANDISE.—For purposes of subparagraphs (C) and  
18 (D) of paragraph (1), imported merchandise or sub-  
19 stitute merchandise is incorporated into other mer-  
20 chandise—

21                   “(A) if the bill of materials or formula for  
22 such other merchandise submitted with the  
23 claim for drawback under subsection (i) in-  
24 cludes the imported merchandise or substitute  
25 merchandise; and



1           “(B) without regard to the number of  
2 times the imported merchandise or substitute  
3 merchandise is incorporated into such other  
4 merchandise.

5           “(f) REQUIREMENTS FOR DESTROYED MERCHAN-  
6 DISE.—

7           “(1) IN GENERAL.—Destroyed merchandise  
8 meets the requirements of this subsection if—

9           “(A) the merchandise is—

10                   “(i) the imported merchandise;

11                   “(ii) merchandise that is substituted  
12 for the imported merchandise pursuant to  
13 subsection (g);

14                   “(iii) merchandise into which the im-  
15 ported merchandise or substitute merchan-  
16 dise is incorporated; or

17                   “(iv) merchandise that is substituted,  
18 pursuant to subsection (g), for merchan-  
19 dise into which the imported merchandise  
20 or substitute merchandise is incorporated;  
21 and

22           “(B) the merchandise—

23                   “(i) is not exported because of its de-  
24 struction; and

1                   “(ii) was not used in the United  
2                   States before its destruction.

3                   “(2) TREATMENT OF RETURNED MERCHAN-  
4                   DISE.—For purposes of paragraph (1)(B)(ii), mer-  
5                   chandise is not used in the United States solely be-  
6                   cause the merchandise is—

7                   “(A) sold at retail by the importer or an-  
8                   other person that received the merchandise  
9                   from the importer under a certificate of deliv-  
10                  ery; and

11                  “(B) subsequently returned to and accept-  
12                  ed by the importer or other person described in  
13                  subparagraph (A).

14                  “(g) SUBSTITUTION.—

15                  “(1) IN GENERAL.—Except as provided in this  
16                  subsection, merchandise may be substituted for  
17                  other merchandise if it can be demonstrated that the  
18                  merchandise was classifiable under the same 8-digit  
19                  HTS subheading number as such other merchandise  
20                  at some point during the 5-year period beginning on  
21                  the date on which the merchandise was imported.

22                  “(2) CLASSIFICATION.—The Schedule B num-  
23                  ber for merchandise may be used for purposes of de-  
24                  termining under paragraph (1) if the merchandise is  
25                  or has been classified under the same 8-digit HTS

1 subheading number as other merchandise, without  
2 regard to whether the Schedule B number encom-  
3 passes more than one 8-digit HTS subheading num-  
4 ber.

5 “(3) SPECIAL SUBSTITUTION RULES.—

6 “(A)(i) Merchandise that is classifiable  
7 under any heading or subheading of the HTS  
8 specified in clause (ii) may be substituted for  
9 other merchandise if the merchandise is classifi-  
10 able under the same 8-digit HTS subheading  
11 number as the other merchandise under the  
12 HTS as in effect on January 1, 2000.

13 “(ii) A heading or subheading of the HTS  
14 specified in this clause is—

15 “(I) any of headings 2707 through  
16 2715, 2901, or 2902;

17 “(II) any of headings 3901 through  
18 3914 (as such headings apply to the pri-  
19 mary forms provided under Note 6 to  
20 chapter 39 of the HTS); or

21 “(III) subheading 2903.21.00,  
22 2909.19.14, 2917.36, 2917.39.04,  
23 2917.39.15, 2926.10.00, 3811.21.00, or  
24 3811.90.00.

1           “(B) Merchandise that is classifiable under  
2           subheading 2204.21.50, 2204.29.20, or  
3           2204.29.60 of the HTS may be substituted for  
4           other merchandise that is classifiable under any  
5           such subheading.

6           “(C) Merchandise that is classifiable under  
7           subheading 2204.21.80, 2204.29.40, or  
8           2204.29.80 of the HTS may be substituted for  
9           other merchandise that is classifiable under any  
10          such subheading.

11          “(4) SPECIAL RULE FOR ETHYL ALCOHOL.—  
12          Notwithstanding any other provision of law, in the  
13          case of any duty paid under subheading 9901.00.50  
14          of the HTS on imports of ethyl alcohol or a mixture  
15          of ethyl alcohol, such duty may not be refunded if  
16          the exported merchandise upon which a drawback  
17          claim is based does not contain ethyl alcohol or a  
18          mixture of ethyl alcohol.

19          “(h) AMOUNT OF DRAWBACK.—

20                 “(1) CLAIMS BASED ON EXPORTATION OF IM-  
21                 PORTED OR SUBSTITUTE MERCHANDISE.—If a per-  
22                 son claims drawback with respect to imported mer-  
23                 chandise based on the exportation of the imported  
24                 merchandise or substitute merchandise, the amount

1 of drawback paid pursuant to this section shall be  
2 equal to 99 percent of the product of—

3 “(A) the number of units of the imported  
4 merchandise or substitute merchandise exported  
5 to claim drawback with respect to the imported  
6 merchandise, and

7 “(B) the lesser of—

8 “(i) the amount of duties, taxes, and  
9 fees paid with respect to the line item for  
10 the imported merchandise divided by the  
11 total number of units of the imported mer-  
12 chandise included in the line item, or

13 “(ii) the amount of duties, taxes, and  
14 fees that would apply to the exported mer-  
15 chandise if the exported merchandise were  
16 imported divided by the number of units of  
17 the exported merchandise.

18 “(2) CLAIMS BASED ON DESTRUCTION OF IM-  
19 PORTED MERCHANDISE, MERCHANDISE INTO WHICH  
20 IMPORTED MERCHANDISE IS INCORPORATED, OR  
21 MERCHANDISE SUBSTITUTED FOR MERCHANDISE  
22 INTO WHICH IMPORTED MERCHANDISE IS INCOR-  
23 PORATED.—If a person claims drawback with re-  
24 spect to imported merchandise based on the destruc-  
25 tion of the imported merchandise, merchandise into

1 which the imported merchandise is incorporated, or  
2 merchandise substituted for merchandise into which  
3 the imported merchandise is incorporated, the  
4 amount of drawback paid pursuant to this section  
5 shall be equal to 99 percent of—

6 “(A) the product of—

7 “(i) the number of units of the im-  
8 ported merchandise destroyed to claim  
9 drawback with respect to the imported  
10 merchandise or incorporated into merchan-  
11 dise for which the destroyed merchandise  
12 is substituted, and

13 “(ii) the amount of duties, taxes, and  
14 fees paid with respect to the line item for  
15 the imported merchandise divided by the  
16 total number of units of the imported mer-  
17 chandise included in the line item, minus

18 “(B) the value of any materials recovered  
19 during the destruction of the destroyed mer-  
20 chandise (including the value of any tax benefit  
21 or royalty payment with respect to such mate-  
22 rials).

23 “(3) CLAIMS BASED ON EXPORTATION OF MER-  
24 CHANDISE INTO WHICH IMPORTED OR SUBSTITUTE  
25 MERCHANDISE IS INCORPORATED OR MERCHANDISE

1       SUBSTITUTED FOR MERCHANDISE INTO WHICH IM-  
2       PORTED OR SUBSTITUTE MERCHANDISE IS INCOR-  
3       PORATED.—If a person claims drawback with re-  
4       spect to imported merchandise based on the expor-  
5       tation of merchandise into which the imported mer-  
6       chandise or substitute merchandise is incorporated,  
7       or merchandise substituted for merchandise into  
8       which the imported merchandise or substitute mer-  
9       chandise is incorporated, the amount of drawback  
10      paid pursuant to this section shall be equal to 99  
11      percent of the product of—

12               “(A) the number of units of the imported  
13              merchandise or substitute merchandise incor-  
14              porated into the exported merchandise or the  
15              merchandise for which the exported merchan-  
16              dise is substituted, and

17               “(B)(i) in the case of exported merchan-  
18              dise into which the imported merchandise is in-  
19              corporated or exported merchandise substituted  
20              for merchandise into which the imported mer-  
21              chandise is incorporated, the amount of duties,  
22              taxes, and fees paid with respect to the line  
23              item for the imported merchandise divided by  
24              the number of units of the imported merchan-  
25              dise included in the line item, or

1           “(ii) in the case of exported merchandise  
2           into which substitute merchandise is incor-  
3           porated or exported merchandise substituted for  
4           merchandise into which substitute merchandise  
5           is incorporated, the lesser of—

6                   “(I) the amount of duties, taxes, and  
7                   fees paid with respect to the line item for  
8                   the imported merchandise divided by the  
9                   total number of units of the imported mer-  
10                  chandise included in the line item, or

11                   “(II) the amount of duties, taxes, and  
12                   fees that would apply to the substitute  
13                   merchandise, if the substitute merchandise  
14                   were imported, divided by the number of  
15                   units of the substitute merchandise incor-  
16                   porated into the exported merchandise or  
17                   the merchandise for which the exported  
18                   merchandise is substituted.

19           “(4) CLAIMS BASED ON DESTRUCTION OF SUB-  
20           STITUTE MERCHANDISE, MERCHANDISE INTO WHICH  
21           SUBSTITUTE MERCHANDISE IS INCORPORATED, OR  
22           MERCHANDISE SUBSTITUTED FOR MERCHANDISE  
23           INTO WHICH SUBSTITUTE MERCHANDISE IS INCOR-  
24           PORATED.—If a person claims drawback with re-  
25           spect to imported merchandise based on the destruc-



1       tion of substitute merchandise, merchandise into  
2       which substitute merchandise is incorporated, or  
3       merchandise substituted for merchandise into which  
4       substitute merchandise is incorporated, the amount  
5       of drawback paid pursuant to this section shall be  
6       equal to 99 percent of the lesser of—

7               “(A) the amount of—

8                       “(i) duties, taxes, and fees that would  
9                       apply to the substitute merchandise de-  
10                      stroyed, incorporated into destroyed mer-  
11                      chandise, or incorporated into merchandise  
12                      for which the destroyed merchandise is  
13                      substituted, if the substitute merchandise  
14                      were imported, minus

15                     “(ii) the value of any materials recov-  
16                     ered during the destruction of the de-  
17                     stroyed merchandise (including the value  
18                     of any tax benefit or royalty payment with  
19                     respect to such materials), or

20               “(B) the amount of drawback the person  
21               could have claimed under paragraph (2) if the  
22               person had destroyed the imported merchan-  
23               dise.

24               “(5) LIMITATION FOR DUTIES, TAXES, AND  
25       FEES PREVIOUSLY REFUNDED.—The amount of du-

1       ties, taxes, and fees that may be refunded as draw-  
2       back with respect to imported merchandise pursuant  
3       to this subsection shall be reduced by the amount of  
4       any duties, taxes, and fees previously refunded to a  
5       person with respect to such merchandise.

6       “(i) FILING REQUIREMENTS.—The requirements for  
7       filing a claim for drawback under this subsection are the  
8       following:

9               “(1) ELECTRONIC FILING.—The claim shall be  
10       filed electronically.

11              “(2) TIME LIMIT FOR CLAIM.—The claim shall  
12       be filed not later than 5 years after the date—

13                   “(A) on which the merchandise with re-  
14       spect to which drawback is claimed is imported;

15       or

16                   “(B) if the claim is based on merchandise  
17       imported on more than one date, the earliest  
18       date on which any such merchandise was im-  
19       ported.

20              “(3) IDENTIFICATION OF MERCHANDISE.—The  
21       claim shall include an identification of the merchan-  
22       dise with respect to which the claim is filed as fol-  
23       lows:

24                   “(A) If drawback is claimed with respect  
25       to imported merchandise based on the expor-

1 tation of merchandise, a demonstration that the  
2 exported merchandise meets the requirements  
3 of subsection (e) using—

4 “(i)(I) the information contained in  
5 the line item for the imported merchandise  
6 and information contained in the line item  
7 for the exported merchandise; and

8 “(II) in the case of imported mer-  
9 chandise or substitute merchandise incor-  
10 porated into the exported merchandise or  
11 merchandise that is substituted for mer-  
12 chandise into which imported merchandise  
13 or substitute merchandise is incorporated,  
14 a bill of materials or formula identifying  
15 the imported merchandise or substitute  
16 merchandise and the exported merchandise  
17 by the 8-digit HTS subheading number  
18 and the quantity of the imported merchan-  
19 dise or substitute merchandise and the ex-  
20 ported merchandise; or

21 “(ii) direct identification.

22 “(B) If drawback is claimed with respect  
23 to imported merchandise based on the destruc-  
24 tion of merchandise, an identification of the im-

1           ported merchandise and the destroyed merchan-  
2           dise using—

3                   “(i)(I) the information contained in  
4                   the line item for the imported merchandise  
5                   and information identifying the destroyed  
6                   merchandise by 8-digit HTS subheading  
7                   number and quantity; and

8                   “(II) in the case of imported mer-  
9                   chandise or substitute merchandise incor-  
10                  porated into the destroyed merchandise or  
11                  merchandise that is substituted for mer-  
12                  chandise into which imported merchandise  
13                  or substitute merchandise is incorporated,  
14                  a bill of materials or formula identifying  
15                  the imported merchandise or substitute  
16                  merchandise and the destroyed merchan-  
17                  dise by the 8-digit HTS subheading num-  
18                  ber and the quantity of the imported mer-  
19                  chandise or substitute merchandise and the  
20                  destroyed merchandise; or

21                  “(ii) using direct identification.

22                  “(4) PROOF OF EXPORTATION.—If drawback is  
23                  claimed with respect to imported merchandise based  
24                  on the exportation of merchandise, the claim shall  
25                  include, as proof of exportation, one of the following:

1           “(A) The record of exportation entered in  
2           the automated export system of the United  
3           States Government or, if the exporter is unable  
4           to use that system, information similar to the  
5           information contained in such a record that is  
6           kept by the exporter in the ordinary course of  
7           business.

8           “(B) In the case of a deemed export, any  
9           record that establishes the deemed export, or a  
10          copy of such a record, that is kept by the ex-  
11          porter in the ordinary course of business.

12          “(5) PROOF OF AUTHORIZATION.—The claim  
13          shall include, as proof of the authorization under  
14          subsection (c)(1) of the importer, exporter, or person  
15          who destroyed merchandise, as appropriate, for an-  
16          other person to claim drawback, records kept in the  
17          ordinary course of business demonstrating the au-  
18          thorization.

19          “(j) SPECIAL RULES.—

20                 “(1) VESSELS BUILT FOR RESIDENTS OF A  
21                 FOREIGN COUNTRY.—Drawback under this section  
22                 may be claimed for materials imported and used in  
23                 the construction and equipment of vessels built for  
24                 foreign account and ownership, or for the govern-  
25                 ment of any foreign country, notwithstanding that

1 such vessels may not within the strict meaning of  
2 the term be exported.

3 “(2) AGRICULTURAL PRODUCTS.—No drawback  
4 may be claimed under this section for an agricul-  
5 tural product with respect to which an over-quota  
6 rate of duty has been paid, unless the product is  
7 identified as the imported agricultural product using  
8 direct identification.

9 “(3) CERTAIN EXPORTED MERCHANDISE.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), upon the exportation of fla-  
12 voring extracts, flavors, medicines, medicinal  
13 preparations, or perfumes manufactured or pro-  
14 duced in the United States in part from domes-  
15 tic alcohol on which an internal revenue tax has  
16 been paid, there shall be allowed a drawback in  
17 an amount equal to the tax found to have been  
18 paid on the alcohol so used.

19 “(B) LIMITATION.—If drawback has been  
20 claimed under section 5114 of the Internal Rev-  
21 enue Code of 1986 with respect to flavoring ex-  
22 tracts, flavors, medicines, medicinal prepara-  
23 tions, or perfumes manufactured or produced in  
24 the United States, the amount of drawback

1 under this paragraph shall be limited to \$1 per  
2 proof gallon.

3 “(C) FORM OF CLAIM.—A claim for draw-  
4 back under this paragraph shall be submitted in  
5 such form, at such times, and under such con-  
6 ditions as the Secretary of the Treasury shall  
7 prescribe by regulation.

8 “(4) PAYMENT FROM RECEIPTS OF PUERTO  
9 RICO.—A drawback under this section for merchan-  
10 dise shall be paid from the customs receipts of Puer-  
11 to Rico if the duties for such merchandise were  
12 originally paid into the Treasury of Puerto Rico.

13 “(k) DRAWBACK ON EXPORTED GOODS UNDER CER-  
14 TAIN FREE TRADE AGREEMENTS.—

15 “(1) SPECIAL RULES FOR NAFTA COUNTRIES.—

16 “(A) IN GENERAL.—Subject to section  
17 508(b)(2)(B) of the Tariff Act of 1930 (19  
18 U.S.C. 1508(b)(2)(B)), and for purposes of this  
19 section, if merchandise that is exported to a  
20 NAFTA country is a good subject to NAFTA  
21 drawback, no customs duties on the good may  
22 be refunded, waived, or reduced in an amount  
23 that exceeds the lesser of—

1           “(i) the total amount of customs du-  
2           ties paid or owed on the good on importa-  
3           tion into the United States; or

4           “(ii) the total amount of customs du-  
5           ties paid on the good on importation into  
6           the NAFTA country.

7           “(B) SPECIAL RULE FOR CANADA.—If  
8           Canada ceases to be a NAFTA country and the  
9           suspension of the operation of the United  
10          States-Canada Free-Trade Agreement there-  
11          after terminates, then for purposes of this sec-  
12          tion, the shipment to Canada during the period  
13          such Agreement is in operation of merchandise  
14          made from or substituted for a good eligible for  
15          drawback under section 204(a) of the United  
16          States-Canada Free-Trade Agreement Imple-  
17          mentation Act of 1988 (Public Law 100-449;  
18          19 U.S.C. 2112 note) does not constitute an ex-  
19          portation.

20          “(C) FUNGIBLE MERCHANDISE EXPORTED  
21          TO NAFTA COUNTRIES.—The exportation to a  
22          NAFTA country of merchandise that is fungible  
23          with and substituted for imported merchandise,  
24          other than merchandise described in paragraphs  
25          (1) through (8) of section 203(a) of the North



1 American Free Trade Agreement Implementa-  
2 tion Act (19 U.S.C. 3333(a)), shall not be  
3 treated as an exportation of substitute mer-  
4 chandise for purposes of drawback under this  
5 section.

6 “(D) PROOF OF EXPORTATION TO CANADA  
7 OR MEXICO.—Notwithstanding subsection  
8 (i)(4), a person filing a claim under this para-  
9 graph shall submit, as proof of exportation, the  
10 entry records from Canada or Mexico.

11 “(2) SPECIAL RULES FOR CHILE.—

12 “(A) IN GENERAL.—For purposes of this  
13 section, if merchandise that is exported to Chile  
14 is a good subject to Chile FTA drawback, no  
15 customs duties on the good may be refunded,  
16 waived, or reduced, except as provided in sub-  
17 paragraph (B).

18 “(B) AMOUNT OF CUSTOMS DUTIES.—The  
19 customs duties referred to in subparagraph (A)  
20 may be refunded, waived, or reduced by—

21 “(i) 100 percent during the 8-year pe-  
22 riod beginning on January 1, 2004;

23 “(ii) 75 percent during the 1-year pe-  
24 riod beginning on January 1, 2012;

1 “(iii) 50 percent during the 1-year pe-  
2 riod beginning on January 1, 2013; and

3 “(iv) 25 percent during the 1-year pe-  
4 riod beginning on January 1, 2014.

5 “(C) FUNGIBLE MERCHANDISE EXPORTED  
6 TO CHILE.—Beginning on January 1, 2015, the  
7 exportation to Chile of merchandise that is fun-  
8 gible with and substituted for imported mer-  
9 chandise, other than merchandise described in  
10 paragraphs (1) through (5) of section 203(a) of  
11 the United States-Chile Free Trade Agreement  
12 Implementation Act (19 U.S.C. 3805 note),  
13 shall not be treated as an exportation of sub-  
14 stitute merchandise for purposes of drawback  
15 under this section. The preceding sentence shall  
16 not be construed to permit the substitution of  
17 merchandise under this section with respect to  
18 merchandise described in paragraph (2) of sec-  
19 tion 203(a) of the United States-Chile Free  
20 Trade Agreement Implementation Act.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) REFUNDS.—Section 505(b) of the Tariff  
23 Act of 1930 (19 U.S.C. 1505(b)) is amended by  
24 adding at the end the following: “Refunds of excess  
25 moneys deposited, as determined on a liquidation or

1       reliquidation, shall be reduced by any amount paid,  
2       on an accelerated basis or otherwise, to a person  
3       claiming drawback pursuant to section 313.”

4           (2) REVIEW OF PROTESTS.—The second sen-  
5       tence of section 515(a) of the Tariff Act of 1930 (19  
6       U.S.C. 1515(a)) is amended by striking the period  
7       at the end and inserting “in accordance with section  
8       505.”.

9           (3) REFUNDS, WAIVERS, AND REDUCTIONS OF  
10       DUTY UNDER NAFTA.—Section 508(b)(2)(B)(i)(III)  
11       of the Tariff Act of 1930 (19 U.S.C.  
12       1508(b)(2)(B)(i)(III)) is amended by striking “sec-  
13       tion 313(n)(2) or (o)(1)” and inserting “section  
14       313(k)(1)”.

15       (c) EFFECTIVE DATE.—

16           (1) IN GENERAL.—Except as provided in para-  
17       graph (2), the amendments made by this section  
18       shall apply to drawback claims filed with respect to  
19       merchandise that enters the United States on or  
20       after the date that is 2 years after the date of the  
21       enactment of this Act.

22           (2) TRANSITION RULE.—During the 1-year pe-  
23       riod beginning on the date specified in paragraph  
24       (1), a person may elect to file a claim for drawback  
25       under—

1 (A) section 313 of the Tariff Act of 1930,  
2 as amended by this section; or

3 (B) section 313 of the Tariff Act of 1930,  
4 as in effect on the day before the date specified  
5 in paragraph (1).

6 (d) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
7 PORT.—Not later than the date that is 4 years after the  
8 date of the enactment of this Act, the Comptroller General  
9 of the United States shall submit to the Committee on  
10 Finance of the Senate and the Committee on Ways and  
11 Means of the House of Representatives a report that con-  
12 tains—

13 (1) an evaluation of the costs and benefits to  
14 the Federal Government, and the benefits to the pri-  
15 vate sector, resulting from the implementation of  
16 section 313 of the Tariff Act of 1930, as amended  
17 by this section; and

18 (2) an assessment of the extent to which the  
19 implementation of that section may permit a person  
20 claiming drawback with respect to imported mer-  
21 chandise to receive drawback in excess of the duties,  
22 taxes, or fees paid on the imported merchandise.

23 **SEC. 403. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

6 “(G) has been convicted of committing or  
7 conspiring to commit an act of terrorism de-  
8 scribed in section 2332b of title 18, United  
9 States Code.”.

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

12 (1) in subsection (g)(2)(B), by striking “Sec-  
13 retary’s notice” and inserting “notice under sub-  
14 paragraph (A)”; and

15 (2) by striking “Customs Service” each place it  
16 appears and inserting “U.S. Customs and Border  
17 Protection Agency”.

18 **SEC. 404. AMENDMENTS TO CHAPTER 98 OF THE HAR-**  
19 **MONIZED TARIFF SCHEDULE OF THE UNITED**  
20 **STATES.**

21 (a) ARTICLES EXPORTED AND RETURNED, AD-  
22 VANCED OR IMPROVED ABROAD.—Subchapter II of chap-  
23 ter 98 of the Harmonized Tariff Schedule of the United  
24 States is amended by adding at the end of U.S. Note 3  
25 the following:

1           “(f)(i) For purposes of subheadings 9802.00.40  
2 and 9802.00.50, fungible articles exported from the  
3 United States for the purposes described in such  
4 subheadings—

5           “(A) may be commingled; and

6           “(B) the origin, value, and classification of  
7 such articles may be accounted for using an in-  
8 ventory management method.

9           “(ii) If a person chooses to use an inventory  
10 management method under this subdivision with re-  
11 spect to fungible articles, the person shall use the  
12 same inventory management method for those arti-  
13 cles with respect to which the person claims  
14 fungibility.

15           “(iii) For purposes of this subdivision—

16           “(A) the term ‘fungible articles’ means ar-  
17 ticles that are interchangeable for commercial  
18 purposes and have essentially identical prop-  
19 erties; and

20           “(B) the term ‘inventory management  
21 method’ means any method for managing inven-  
22 tory that is based on generally accepted ac-  
23 counting principles.”.

24           (b) MODIFICATION OF PROVISIONS RELATING TO  
25 RETURNED PROPERTY.—The article description for sub-

1 heading 9801.00.10 of the Harmonized Tariff Schedule of  
 2 the United States is amended by inserting after “ex-  
 3 ported” the following: “, or any other products when re-  
 4 turned within 3 years after having been exported”.

5 (c) DUTY-FREE TREATMENT FOR CERTAIN UNITED  
 6 STATES GOVERNMENT PROPERTY RETURNED TO THE  
 7 UNITED STATES.—Subchapter I of chapter 98 of the Har-  
 8 monized Tariff Schedule of the United States is amended  
 9 by inserting in numerical sequence the following new sub-  
 10 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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11 **SEC. 405. CHARTER FLIGHTS.**

12 Section 13031(e)(1) of the Consolidated Omnibus  
 13 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1))  
 14 is amended—

15 (1) by striking “(1) Notwithstanding section  
 16 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or  
 17 any other provision of law (other than paragraph  
 18 (2))” and inserting the following:

19 “(1)(A) Notwithstanding section 451 of the Tariff  
 20 Act of 1930 (19 U.S.C. 1451) or any other provision of

1 law (other than subparagraph (B) and paragraph (2))”;  
2 and

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

4 “(B)(i) An appropriate officer of the U.S. Customs  
5 and Border Protection Agency may assign a sufficient  
6 number of employees from the Agency (if available) to per-  
7 form services described in clause (ii) for a charter air car-  
8 rier (as defined in section 40102 of title 49, United States  
9 Code) for a charter flight arriving after normal operating  
10 hours at an airport that is an established port of entry  
11 serviced by the Agency, notwithstanding that overtime  
12 funds for those services are not available, if the charter  
13 air carrier—

14 “(I) not later than 4 hours before the flight ar-  
15 rives, specifically requests that such services be pro-  
16 vided; and

17 “(II) pays any overtime fees incurred in connec-  
18 tion with such services.

19 “(ii) Services described in this clause are customs  
20 services for passengers and their baggage or any other  
21 such service that could lawfully be performed during reg-  
22 ular hours of operation.”.



1 **SEC. 406. PILOT PROGRAM TO DESIGNATE ADDITIONAL 24-**  
2 **HOUR COMMERCIAL PORTS OF ENTRY.**

3 (a) ESTABLISHMENT OF PILOT PROGRAM.—The  
4 President shall establish a pilot program under which the  
5 President shall—

6 (1) pursuant to the Act of August 1, 1914 (38  
7 Stat. 623, chapter 223; 19 U.S.C. 2), designate cer-  
8 tain land border crossings as 24-hour commercial  
9 ports of entry in accordance with subsections (b)  
10 and (c); and

11 (2) ensure that each land border crossing des-  
12 igned as a commercial port of entry under the  
13 pilot program has sufficient resources—

14 (A) to carry out the functions of a com-  
15 mercial port of entry, including accepting en-  
16 tries of merchandise, collecting duties, and en-  
17 forcing the customs and trade laws of the  
18 United States; and

19 (B) to perform those functions 24 hours a  
20 day.

21 (b) DESIGNATION.—Not later than 180 days after  
22 the date of the enactment of this Act, the President shall,  
23 after considering the criteria set forth in subsection (c)  
24 and any input provided by the public, designate not fewer  
25 than 2 and not more than 6 land border crossings, equally  
26 divided between land border crossings on the northern and

1 southern borders of the United States, as 24-hour com-  
2 mercial ports of entry under the pilot program established  
3 under subsection (a).

4 (c) CRITERIA.—In designating a land border crossing  
5 as a 24-hour commercial port of entry under the pilot pro-  
6 gram established under subsection (a), the President shall  
7 consider the following:

8 (1) The number of 24-hour commercial ports of  
9 entry already located in the State in which the land  
10 border crossing is located.

11 (2) The costs associated with operating the land  
12 border crossing as a 24-hour commercial port of  
13 entry, including whether the Federal Government  
14 would be required to acquire or lease additional  
15 land.

16 (3) The positive economic impact of designating  
17 the land border crossing as a 24-hour commercial  
18 port of entry on the community in which the land  
19 border crossing is located.

20 (4) Any commitment of resources by the gov-  
21 ernment of Canada or Mexico, as applicable, to a  
22 similar designation of a corresponding foreign port  
23 of entry.

24 (5) The support demonstrated by the govern-  
25 ment of the State or locality in which the land bor-

1 der crossing is located, including through infrastruc-  
2 ture improvements, to facilitate the operation of the  
3 land border crossing as a 24-hour commercial port  
4 of entry.

5 (d) TERMINATION.—

6 (1) DETERMINATION OF ECONOMIC BENEFIT.—

7 Not later than the date that is 2 years after the date  
8 on which a land border crossing designated as a 24-  
9 hour commercial port of entry under the pilot pro-  
10 gram established under subsection (a) becomes fully  
11 operational as a 24-hour commercial port of entry,  
12 the President shall—

13 (A) determine whether the operation of the  
14 land border crossing as a port of entry 24  
15 hours a day provides a net economic benefit to  
16 the United States; and

17 (B) submit to the Committee on Finance  
18 of the Senate and Committee on Ways and  
19 Means of the House of Representatives a report  
20 on that determination and the reasons for that  
21 determination.

22 (2) TERMINATION.—If the President deter-  
23 mines under paragraph (1) that operating a land  
24 border crossing as a port of entry 24 hours a day  
25 does not provide a net economic benefit to the

1 United States, the land border crossing shall cease  
2 to operate as a port of entry 24 hours a day on the  
3 date on which the President submits the report  
4 under paragraph (1)(B).

5 (e) REPORT.—Not later than 90 days before the  
6 President makes a determination under subsection (d)(1)  
7 with respect to a land border crossing designated as a 24-  
8 hour commercial port of entry under the pilot program  
9 established under subsection (a), the President shall sub-  
10 mit to the Committee on Finance of the Senate and Com-  
11 mittee on Ways and Means of the House of Representa-  
12 tives a report that provides—

13 (1) a comparison of the vehicle traffic, the esti-  
14 mated total volume of commercial merchandise en-  
15 tered, and the wait times at the land border cross-  
16 ing—

17 (A) during the 2-year period preceding the  
18 designation of the land border crossing as a 24-  
19 hour commercial port of entry; and

20 (B) after the land border crossing becomes  
21 fully operational as a 24-hour commercial port  
22 of entry;

23 (2) a comparison of the total value of commer-  
24 cial merchandise transported through the land bor-  
25 der crossing—

1 (A) during the 2-year period preceding the  
 2 designation of the land border crossing as a 24-  
 3 hour commercial port of entry; and

4 (B) after the land border crossing becomes  
 5 fully operational as a 24-hour commercial port  
 6 of entry; and

7 (3) a comparison of wait times at other ports  
 8 of entry in the State in which the land border cross-  
 9 ing is located—

10 (A) during the 2-year period preceding the  
 11 designation of the land border crossing as a 24-  
 12 hour commercial port of entry; and

13 (B) after the land border crossing becomes  
 14 fully operational as a 24-hour commercial port  
 15 of entry.

16 **SEC. 407. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**  
 17 **TION TO PROHIBITION ON IMPORTATION OF**  
 18 **GOODS MADE WITH CONVICT LABOR,**  
 19 **FORCED LABOR, OR INDENTURED LABOR; RE-**  
 20 **PORT.**

21 (a) **ELIMINATION OF CONSUMPTIVE DEMAND EX-**  
 22 **CEPTION.—**

23 (1) **IN GENERAL.—**Section 307 of the Tariff  
 24 Act of 1930 (19 U.S.C. 1307) is amended by strik-

1       ing “The provisions of this section” and all that fol-  
2       lows through “of the United States.”.

3           (2) EFFECTIVE DATE.—The amendment made  
4       by paragraph (1) shall take effect on the date that  
5       is 15 days after the date of the enactment of this  
6       Act.

7       (b) REPORT REQUIRED.—Not later than 180 days  
8       after the date of the enactment of this Act, and annually  
9       thereafter, the Commissioner shall submit to the Com-  
10      mittee on Finance of the Senate and the Committee on  
11      Ways and Means of the House of Representatives a report  
12      on compliance with section 307 of the Tariff Act of 1930  
13      (19 U.S.C. 1307) that includes the following:

14           (1) The number of instances in which merchan-  
15      dise was denied entry pursuant to that section dur-  
16      ing the 1-year period preceding the submission of  
17      the report.

18           (2) A description of the merchandise denied  
19      entry pursuant to that section.

20           (3) Such other information as the Commis-  
21      sioner considers appropriate with respect to moni-  
22      toring and enforcing compliance with that section.

23      **SEC. 408. HONEY TRANSSHIPMENT.**

24           (a) IN GENERAL.—The Commissioner of U.S. Cus-  
25      toms and Border Protection shall direct appropriate per-

1 sonnel and resources of the U.S. Customs and Border Pro-  
2 tection Agency to address concerns that honey is being  
3 imported into the United States in violation of the customs  
4 and trade laws of the United States.

5 (b) COUNTRY OF ORIGIN.—

6 (1) IN GENERAL.—The Commissioner of U.S.  
7 Customs and Border Protection shall compile a  
8 database of the individual characteristics of honey  
9 produced in foreign countries to facilitate the  
10 verification of country of origin markings of im-  
11 ported honey.

12 (2) ENGAGEMENT WITH FOREIGN GOVERN-  
13 MENTS.—The Commissioner shall seek to engage the  
14 customs agencies of foreign governments for assist-  
15 ance in compiling the database described in para-  
16 graph (1).

17 (3) CONSULTATION WITH INDUSTRY.—In com-  
18 piling the database described in paragraph (1), the  
19 Commissioner shall consult with entities in the  
20 honey industry regarding the development of indus-  
21 try standards for honey identification.

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

1 (c) REPORT REQUIRED.—Not later than 180 days  
2 after the date of the enactment of this Act, the Commis-  
3 sioner of U.S. Customs and Border Protection shall sub-  
4 mit to Congress a report that—

5 (1) describes and assesses the limitations in the  
6 existing analysis capabilities of laboratories with re-  
7 spect to determining the country of origin of honey  
8 samples or the percentage of honey contained in a  
9 sample; and

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

12 (d) SENSE OF CONGRESS.—It is the sense of Con-  
13 gress that the Commissioner of Food and Drugs should  
14 promptly establish a national standard of identity for  
15 honey for the Commissioner of U.S. Customs and Border  
16 Protection to use to ensure that imports of honey are—

17 (1) classified accurately for purposes of assess-  
18 ing duties; and

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

22 **SEC. 409. CONTRABAND ARCHAEOLOGICAL OR ETHNO-**  
23 **LOGICAL MATERIALS.**

24 (a) IN GENERAL.—The Commissioner shall ensure  
25 that appropriate personnel of the U.S. Customs and Bor-



1 der Protection Agency are trained in the detection, identi-  
2 fication, and detention of archaeological or ethnological  
3 materials the importation of which violates the customs  
4 and trade laws of the United States.

5 (b) TRAINING.—The Commissioner is authorized to  
6 accept training and other support services from experts  
7 outside of the Federal Government in the detection, identi-  
8 fication, and detention of archaeological or ethnological  
9 materials described in subsection (a).

10 **SEC. 410. DE MINIMIS VALUE AND ENTRY UNDER REGULA-**  
11 **TIONS.**

12 (a) INCREASE IN MAXIMUM VALUE OF ARTICLES  
13 THAT MAY BE IMPORTED DUTY-FREE BY ONE PERSON  
14 ON ONE DAY.—

15 (1) IN GENERAL.—Section 321(a)(2)(C) of the  
16 Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is  
17 amended by striking “\$200” and inserting “\$800”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by paragraph (1) shall apply with respect to articles  
20 entered, or withdrawn from warehouse for consump-  
21 tion, on or after the 15th day after the date of the  
22 enactment of this Act.

23 (b) ENTRY UNDER REGULATIONS.—Section 498 of  
24 the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

1 (1) in subsection (a), by striking paragraph (1)  
2 and inserting the following:

3 “(1) Merchandise, when different commercial  
4 facilitation and risk considerations that may vary for  
5 different classes or kinds of merchandise or different  
6 classes of transactions may dictate;”;

7 (2) by redesignating subsection (b) as sub-  
8 section (c); and

9 (3) by inserting after subsection (a) the fol-  
10 lowing:

11 “(b) ENTRY OF MERCHANDISE VALUED AT \$2,500  
12 OR LESS.—

13 “(1) IN GENERAL.—Except as provided in para-  
14 graph (2), the Secretary of the Treasury shall pre-  
15 scribe rules and regulations for the declaration and  
16 entry of merchandise if the aggregate value of the  
17 shipment of merchandise does not exceed \$2,500.

18 “(2) EXCEPTION.—The rules and regulations  
19 prescribed under paragraph (1) shall not apply to  
20 merchandise that—

21 “(A) has a value in excess of \$250; and

22 “(B) is classified under section VII, VIII,  
23 XI, or XII, chapter 94, or subchapter III or IV  
24 of chapter 99 of the Harmonized Tariff Sched-  
25 ular of the United States.”.

1 **SEC. 411. REPEAL OF AUTHORITY OF U.S. CUSTOMS AND**  
2 **BORDER PROTECTION AGENCY TO ENTER**  
3 **INTO CERTAIN REIMBURSABLE FEE AGREE-**  
4 **MENTS.**

5 Section 560 of the Department of Homeland Security  
6 Appropriations Act, 2013 (division D of the Consolidated  
7 and Further Continuing Appropriations Act, 2013) is re-  
8 pealed.

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