

112TH CONGRESS  
2D SESSION

# H. R. 6642

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2012

Mr. BRADY of Texas introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Homeland Security and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reauthorize customs trade facilitation and enforcement functions and programs, 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 “Customs Trade Facilitation and Enforcement Act of  
6 2012”.

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 FACILITATION

## Subtitle A—Functions Other Than Investigative Functions

- Sec. 101. Establishment of Agency; Commissioner.
- Sec. 102. Officers and employees.
- Sec. 103. Separate budget 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. Designation of trade oversight personnel.
- Sec. 111. Consultation on trade and customs revenue functions.
- Sec. 112. Authorization of appropriations.

## Subtitle B—Investigative Functions

- Sec. 121. Separate budget for U.S. Immigration and Customs Enforcement.
- Sec. 122. Authorization of appropriations.

## Subtitle C—Joint Strategic Plan

- Sec. 131. Joint Strategic Plan.

TITLE II—CUSTOMS FACILITATION, TRADE ENFORCEMENT, AND  
TRANSPARENCY

## Subtitle A—Customs Facilitation and Transparency

- Sec. 201. Consultations with respect to mutual recognition agreements.
- Sec. 202. Commercial Customs Operations Advisory Committee.
- Sec. 203. Automated Commercial Environment computer system.
- Sec. 204. International Trade Data System.

## Subtitle B—Trade Enforcement

## CHAPTER 1—COMMERCIAL RISK ASSESSMENT TARGETING

- Sec. 211. Commercial Targeting Division and National Targeting and Analysis Groups.
- Sec. 212. Centers of Excellence and Expertise.
- Sec. 213. Report on oversight of revenue protection and enforcement measures.
- Sec. 214. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 215. Report on effectiveness of trade enforcement activities.
- Sec. 216. Priorities and performance standards for Customs modernization, trade facilitation, and trade enforcement functions and programs.
- Sec. 217. Educational seminars to improve efforts to classify and appraise imported articles and to improve trade enforcement efforts.

## CHAPTER 2—IMPORTER REQUIREMENTS

- Sec. 221. Importer of record program.
- Sec. 222. Customs broker identification of importers.
- Sec. 223. Establishment of “new importer” program.

- Sec. 224. Requirements applicable to non-resident importers.  
 Sec. 225. Certified importer program.

CHAPTER 3—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

- Sec. 231. Exchange of information related to trade enforcement.

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

- Sec. 301. Short title.  
 Sec. 302. Definitions.  
 Sec. 303. Application to Canada and Mexico.

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

- Sec. 311. Trade Remedy Law Enforcement Division.  
 Sec. 312. Collection of information on evasion of trade remedy laws.  
 Sec. 313. Access to information.  
 Sec. 314. Cooperation with foreign countries on preventing evasion of trade remedy laws.  
 Sec. 315. Trade negotiating objectives.

Subtitle B—Other Matters

- Sec. 321. Allocation and training of personnel.  
 Sec. 322. Annual report on prevention of evasion of antidumping and countervailing duty orders.  
 Sec. 323. Addressing circumvention by new shippers.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Penalties for customs brokers.  
 Sec. 402. De minimis value and entry under regulations.  
 Sec. 403. Collection and remittance of certain Customs User Fees.  
 Sec. 404. Drawback and refunds.  
 Sec. 405. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.

TITLE V—OTHER TRADE AGENCIES

- Sec. 501. United States International Trade Commission.  
 Sec. 502. Office of the United States Trade Representative.

**1 SEC. 2. DEFINITIONS.**

**2 In this Act:**

**3 (1) COMMERCIAL CUSTOMS OPERATIONS ADVI-**  
**4 SORY COMMITTEE.**—The term “Commercial Customs  
**5 Operations Advisory Committee” means the Advi-**

1 sory Committee established pursuant to section 202  
2 of this Act or any successor committee.

3 (2) COMMERCIAL OPERATIONS.—The term  
4 “commercial operations”, with respect to the U.S.  
5 Customs and Border Protection Agency, includes—

6 (A) administering any customs revenue  
7 function delegated by the Secretary of the  
8 Treasury to the Secretary of Homeland Secu-  
9 rity pursuant to section 412 of the Homeland  
10 Security Act of 2002 (6 U.S.C. 212);

11 (B) facilitating legitimate international  
12 trade, and enforcing the customs and trade  
13 laws of the United States to the extent of the  
14 authority of the Commissioner under such laws;

15 (C) coordinating all efforts of the Depart-  
16 ment of Homeland Security to facilitate legiti-  
17 mate international trade and to enforce the cus-  
18 toms and trade laws of the United States;

19 (D) coordinating, on behalf of the Depart-  
20 ment of Homeland Security, efforts among ex-  
21 ecutive branch agencies to facilitate legitimate  
22 trade and to enforce the customs and trade  
23 laws of the United States, including—

1 (i) representing the Department of  
2 Homeland Security in interagency fora ad-  
3 dressing such efforts; and

4 (ii) coordinating with the Director of  
5 U.S. Immigration and Customs Enforce-  
6 ment to develop and implement the Joint  
7 Strategic Plan;

8 (E) coordinating, on behalf of the United  
9 States, efforts with foreign customs agencies to  
10 facilitate legitimate international trade and to  
11 enforce the customs and trade laws of the  
12 United States and of foreign countries;

13 (F) collecting, assessing, and disseminating  
14 information as appropriate and in accordance  
15 with law, regarding cargo destined for the  
16 United States, to ensure that such cargo com-  
17 plies with the customs and trade laws of the  
18 United States and to facilitate the legitimate  
19 international trade of such cargo;

20 (G) soliciting and considering on a regular  
21 basis input from the private sector, including  
22 the Commercial Customs Operations Advisory  
23 Committee, the Trade Support Network, and  
24 other entities affected by the efforts of the Fed-  
25 eral Government to facilitate legitimate inter-

1 national trade and to enforce the customs and  
2 trade laws of the United States, with respect  
3 to—

4 (i) the implementation of new or  
5 amended customs and trade laws of the  
6 United States; and

7 (ii) the development, implementation,  
8 or revision of policies or regulations admin-  
9 istered by the U.S. Customs and Border  
10 Protection Agency; and

11 (H) otherwise advising the Secretary of  
12 Homeland Security with respect to the develop-  
13 ment of policies associated with facilitating le-  
14 gitimate international trade and enforcing the  
15 customs and trade laws of the United States.

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

19 (A) The Tariff Act of 1930.

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

22 (C) Section 2 of the Act of March 4, 1923  
23 (19 U.S.C. 6).

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

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

6 (F) Section 1 of the Act of June 26, 1930  
7 (19 U.S.C. 68).

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

10 (H) Section 1 of the Act of March 2, 1911  
11 (19 U.S.C. 198).

12 (I) The Trade Act of 1974.

13 (J) The Trade Agreements Act of 1979.

14 (K) The North American Free Trade Area  
15 Implementation Act.

16 (L) The Uruguay Round Agreements Act.

17 (M) The Caribbean Basin Economic Re-  
18 covery Act.

19 (N) The Andean Trade Preference Act.

20 (O) The African Growth and Opportunity  
21 Act.

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

24 (Q) The Customs Enforcement Act of  
25 1986 (Public Law 99–570; 100 Stat. 3207–79).

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

3 (S) The Customs Procedural Reform and  
4 Simplification Act of 1978 (Public Law 95–  
5 410; 92 Stat. 888).

6 (T) The Trade Act of 2002 (Public Law  
7 107–210; 116 Stat. 933).

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

10 (V) The Act of August 7, 1939 (53 Stat.  
11 1263, chapter 566; 19 U.S.C. 2077 et seq.).

12 (W) Any other provision of law vesting  
13 customs revenue functions in the Secretary of  
14 the Treasury.

15 (X) Any other provision of law relating to  
16 customs facilitation or trade enforcement that  
17 is administered by the U.S. Customs and Bor-  
18 der Protection Agency on behalf of any Federal  
19 agency that is required to participate in the  
20 International Trade Data System established  
21 pursuant to section 411(d) of the Tariff Act of  
22 1930 (19 U.S.C. 1411(d)), as amended by sec-  
23 tion 204 of this Act.



1           (Y) Any other provision of customs or  
2           trade law administered by the U.S. Customs  
3           and Border Protection Agency.

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

8           (5) IMPORTER.—The term “importer” means  
9           one of the parties qualifying as an importer of  
10          record under section 484(a)(2)(B) of the Tariff Act  
11          of 1930 (19 U.S.C. 1484(a)(2)(B)).

12          (6) NONRESIDENT IMPORTER.—The term “non-  
13          resident importer” means an importer who is—

14                (A) an individual who is not a citizen of  
15                the United States or an alien lawfully admitted  
16                for permanent residence in the United States;  
17                or

18                (B) a partnership, corporation, or other  
19                commercial entity that is not organized under  
20                the laws of a jurisdiction within the customs  
21                territory of the United States (as such term is  
22                defined in General Note 2 of the Harmonized  
23                Tariff Schedule of the United States) or in the  
24                Virgin Islands of the United States.

1           (7) JOINT STRATEGIC PLAN.—The term “Joint  
2 Strategic Plan” means the plan required by section  
3 131 of this Act.

4           (8) TRADE SUPPORT NETWORK.—The term  
5 “Trade Support Network” means representatives of  
6 the private sector that provide input on the design  
7 and development of modernization projects of the  
8 U.S. Customs and Border Protection Agency.

9                           **TITLE I—CUSTOMS**  
10                           **FACILITATION**  
11           **Subtitle A—Functions Other Than**  
12                           **Investigative Functions**

13   **SEC. 101. ESTABLISHMENT OF AGENCY; COMMISSIONER.**

14           (a) IN GENERAL.—The first section of the Act of  
15 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
16 2071), is amended to read as follows:

17   **“SEC. 1. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**  
18                           **PROTECTION AGENCY; COMMISSIONER.**

19           “(a) ESTABLISHMENT OF U.S. CUSTOMS AND BOR-  
20 DER PROTECTION AGENCY.—There is established in the  
21 Department of Homeland Security the U.S. Customs and  
22 Border Protection Agency.

23           “(b) ESTABLISHMENT OF COMMISSIONER OF U.S.  
24 CUSTOMS AND BORDER PROTECTION.—The head of the  
25 U.S. Customs and Border Protection Agency shall be a

1 Commissioner of U.S. Customs and Border Protection (in  
2 this Act referred to as the ‘Commissioner’), who shall—

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

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

7 “(3) report directly to the Secretary of Home-  
8 land Security.

9 “(c) DUTIES.—

10 “(1) IN GENERAL.—The Commissioner shall—

11 “(A) carry out the duties and powers pre-  
12 scribed by law or by the Secretary of Homeland  
13 Security;

14 “(B) direct the administration of the com-  
15 mercial operations of the U.S. Customs and  
16 Border Protection Agency and the enforcement  
17 of the customs and trade laws of the United  
18 States; and

19 “(C) otherwise safeguard the economic and  
20 homeland security interests of the United  
21 States at land borders and ports of entry.

22 “(2) DEFINITIONS.—In this subsection, the  
23 terms ‘commercial operations’ and ‘customs and  
24 trade laws of the United States’ have the meanings

1 given such terms in section 2 of the Customs Trade  
2 Facilitation and Enforcement Act of 2012.

3 “(d) ABSENCE OR DISABILITY OF COMMISSIONER.—  
4 The Deputy Commissioner of U.S. Customs and Border  
5 Protection, appointed pursuant to section 2, shall act as  
6 Commissioner of U.S. Customs and Border Protection  
7 during the absence or disability of the Commissioner of  
8 U.S. Customs and Border Protection, or in the event that  
9 there is no Commissioner of U.S. Customs and Border  
10 Protection.”.

11 (b) ADMINISTRATIVE CONTINUITY.—

12 (1) IN GENERAL.—The Act of March 3, 1927  
13 (44 Stat. 1381, chapter 348; 19 U.S.C. 2073), is  
14 amended by striking section 3 and inserting the fol-  
15 lowing:

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

18 “(a) IN GENERAL.—Effective on the date of the en-  
19 actment of the Customs Trade Facilitation and Enforce-  
20 ment Act of 2012, the functions and associated personnel,  
21 assets, and liabilities, identified under section 411 of the  
22 Homeland Security Act of 2002 (6 U.S.C. 211) on the  
23 day before such date of enactment, are transferred to the  
24 U.S. Customs and Border Protection Agency.

1       “(b) CONTINUATION IN OFFICE.—The individual  
2 serving as Commissioner of Customs, in the Department  
3 of Homeland Security, on the day before the date of the  
4 enactment of the Customs Trade Facilitation and En-  
5 forcement Act of 2012 may serve as the Commissioner of  
6 the U.S. Customs and Border Protection Agency until the  
7 earlier of—

8               “(1) the date on which such individual is no  
9 longer eligible to serve as Commissioner of Customs;  
10 or

11               “(2) the date on which a person nominated by  
12 the President to be the Commissioner of U.S. Cus-  
13 toms and Border Protection is confirmed by the  
14 Senate.”.

15               (2) REPEAL.—Section 411 of the Homeland Se-  
16 curity Act of 2002 (6 U.S.C. 211), and the item re-  
17 lating to that section in the table of contents for  
18 that Act, are repealed.

19       (c) REFERENCE.—On and after the effective date of  
20 this Act, any reference in law or regulations to the “Com-  
21 missioner of Customs” or the “Commissioner of the Cus-  
22 toms Service” shall be deemed to be a reference to the  
23 Commissioner of U.S. Customs and Border Protection es-  
24 tablished pursuant to section 1 of the Act of March 3,  
25 1927, as amended by subsection (a) of this section.

1 (d) COMPENSATION.—Section 5314 of title 5, United  
2 States Code, is amended by striking “Commissioner of  
3 Customs, Department of Homeland Security” and insert-  
4 ing “Commissioner of U.S. Customs and Border Protec-  
5 tion, Department of Homeland Security”.

6 **SEC. 102. OFFICERS AND EMPLOYEES.**

7 (a) DEPUTY COMMISSIONER.—Section 2 of the Act  
8 of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
9 2072), is amended by striking subsection (a) and inserting  
10 the following:

11 “(a) DEPUTY COMMISSIONER.—

12 “(1) IN GENERAL.—There shall be in the U.S.  
13 Customs and Border Protection Agency established  
14 by the first section, 1 Deputy Commissioner who  
15 shall be appointed by the President, by and with the  
16 advice and consent of the Senate.

17 “(2) QUALIFICATIONS.—A person appointed to  
18 be the Deputy Commissioner of U.S. Customs and  
19 Border Protection shall have a minimum of 10 years  
20 of professional experience in the operation of the  
21 customs and trade laws of the United States.

22 “(3) DUTIES.—The duties of the Deputy Com-  
23 missioner shall include—

24 “(A) overseeing the commercial operations  
25 of the U.S. Customs and Border Protection

1 Agency, including the operations of the Office  
2 of International Trade and all other offices of  
3 the Agency whose duties primarily relate to the  
4 commercial operations of the Agency;

5 “(B) resolving issues relating to the com-  
6 mercial operations of the U.S. Customs and  
7 Border Protection Agency, including liaising be-  
8 tween offices primarily charged with carrying  
9 out the commercial operations of the Agency  
10 and any operational or port level office, includ-  
11 ing the Office of Field Operations or any suc-  
12 cessor office, in the administration of duties re-  
13 lating to the commercial operations of the  
14 Agency;

15 “(C) overseeing the development and im-  
16 plementation information technology, research,  
17 and communication functions of the U.S. Bor-  
18 der and Protection Agency that affect the com-  
19 mercial operations of the Agency, including  
20 modernization strategies, that support the com-  
21 mercial operations of the Agency, including the  
22 implementation of the Automated Commercial  
23 Environment computer system authorized under  
24 section 13031(f)(5) of the Consolidated Omni-

1 bus Budget and Reconciliation Act of 1985 (19  
2 U.S.C. 58c(f)(5));

3 “(D) overseeing the customs revenue func-  
4 tions of the U.S. Customs and Border Protec-  
5 tion Agency in consultation, as appropriate,  
6 with the Deputy Assistant Secretary for Tax,  
7 Trade, and Tariff Policy of the Department of  
8 the Treasury or any successor position;

9 “(E) overseeing the administration of cus-  
10 toms revenue functions of the U.S. Customs  
11 and Border Protection Agency; and

12 “(F) consulting with the Committee on Fi-  
13 nance of the Senate and the Committee on  
14 Ways and Means of the House of Representa-  
15 tives on a regular and timely basis regarding  
16 the administration of the commercial operations  
17 of the U.S. Customs and Border Protection  
18 Agency, including—

19 “(i) the status and substance of inter-  
20 national negotiations relating to the cus-  
21 toms and trade laws of the United States,  
22 or of foreign countries, in which personnel  
23 of the Agency are participating;



1           “(ii) the resource needs of the Agency  
2           in relation to the commercial operations of  
3           the Agency;

4           “(iii) any proposed changes to policy,  
5           regulations, interpretations, or practices  
6           that relate to commercial operations;

7           “(iv) any legislative proposals that the  
8           Agency or the Department of Homeland  
9           Security provides to other committees of  
10          the Senate or the House of Representatives  
11          or individual members of such committees  
12          that relate to the commercial operations of  
13          the Agency; and

14          “(v) the implementation of new or  
15          amended customs and trade laws of the  
16          United States.

17           “(4) ABSENCE OR DISABILITY OF DEPUTY COM-  
18          MISSIONER.—The Assistant Commissioner of the Of-  
19          fice of International Trade shall act as the Deputy  
20          Commissioner during the disability of the Deputy  
21          Commissioner, or in the event that there is no Dep-  
22          uty Commissioner.”.

23          (b) TRADE ADVOCATE.—Section 2 of the Act of  
24          March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
25          2072), as amended by subsection (a) of this section, is

1 further amended by striking subsection (b) and inserting  
2 the following:

3 “(b) TRADE ADVOCATE.—

4 “(1) IN GENERAL.—The Commissioner shall  
5 appoint within the U.S. Customs and Border Protec-  
6 tion Agency, a Trade Advocate, who shall report di-  
7 rectly to the Commissioner.

8 “(2) QUALIFICATIONS.—A person appointed to  
9 be Trade Advocate shall have not less than 5 years  
10 experience working in international trade in the pri-  
11 vate sector.

12 “(3) DUTIES.—The Trade Advocate shall—

13 “(A) serve as the primary liaison between  
14 the U.S. Customs and Border Protection Agen-  
15 cy and the public with respect to the Agency’s  
16 administration of customs facilitation and trade  
17 enforcement functions;

18 “(B) assist the Commissioner in resolving  
19 issues relating to the commercial operations of  
20 the Agency by effectively communicating the  
21 perspectives held by interested parties in the  
22 private sector and other private commercial in-  
23 terests;

24 “(C) consult with interested parties in the  
25 private sector, the Commercial Customs Oper-

1           ations Advisory Committee, and the Trade Sup-  
2           port Network, for their input with respect to  
3           the Agency’s—

4                   “(i) development and implementation  
5                   of rules, regulations, decisions, and notices  
6                   related to the customs and trade laws of  
7                   the United States administered by the  
8                   Agency;

9                   “(ii) development of the Joint Stra-  
10                  tegic Plan required under section 131 of  
11                  the Customs Trade Facilitation and En-  
12                  forcement Act of 2012;

13                  “(iii) assessment of the effectiveness  
14                  of customs facilitation and trade enforce-  
15                  ment efforts; and

16                  “(iv) trade modernization activities,  
17                  including the development and implementa-  
18                  tion of the Automated Commercial Envi-  
19                  ronment computer system authorized  
20                  under section 13031(f)(5) of the Consoli-  
21                  dated Omnibus Budget and Reconciliation  
22                  Act of 1985 (19 U.S.C. 58c(f)(5)) and  
23                  support for the establishment of the Inter-  
24                  national Trade Data System under the  
25                  oversight of the Department of the Treas-

1                   ury pursuant to section 411(d) of the Tar-  
2                   iff Act of 1930 (19 U.S.C. 1411(d));

3                   “(D) advise the Commissioner with respect  
4                   to the consultations described in subparagraph  
5                   (C); and

6                   “(E) otherwise consult with the public as  
7                   directed by the Commissioner or by law.”.

8           (c) OTHER OFFICERS.—Section 2 of the Act of  
9   March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.  
10 2072), as amended by subsections (a) and (b) of this sec-  
11 tion, is further amended by striking subsection (c) and in-  
12 serting the following:

13           “(c) OTHER OFFICERS.—The Secretary of Homeland  
14 Security may appoint such other officers as are necessary  
15 to manage the individual offices within the U.S. Customs  
16 and Border Protection Agency. Any appointment of per-  
17 sonnel under this subsection shall be subject to the provi-  
18 sions of the civil service laws, and the salaries of such per-  
19 sonnel shall be fixed in accordance with chapter 51 and  
20 subchapter III of chapter 53 of title 5, United States  
21 Code.”.

22           (d) OFFICE OF INTERNATIONAL TRADE.—Section  
23 2(d) of the Act of March 3, 1927 (44 Stat. 1381, chapter  
24 348; 19 U.S.C. 2072(d)), is amended—

1           (1) in paragraph (1), by striking “United  
2 States Customs and Border Protection” and insert-  
3 ing “U.S. Customs and Border Protection Agency”;  
4 and

5           (2) in paragraph (2)—

6           (A) in the heading, by striking “; ELIMI-  
7 NATION OF OFFICES”;

8           (B) by striking subparagraph (A) and in-  
9 serting the following:

10           “(A) OFFICE OF FIELD OPERATIONS.—

11           “(i) TRANSFER.—

12           “(I) IN GENERAL.—Not later  
13 than 90 days after the date of enact-  
14 ment of the Customs Trade Enforce-  
15 ment and Facilitation Act of 2012,  
16 the Commissioner shall transfer to the  
17 Office of International Trade estab-  
18 lished pursuant to paragraph (1) the  
19 assets, functions (other than adminis-  
20 trative functions), and personnel de-  
21 scribed in subclause (II) of the Office  
22 of Field Operations.

23           “(II) PERSONNEL DESCRIBED.—

24           The personnel of the Office of Field

1 Operations referred to in subclause (I)  
2 are the following:

3 “(aa) Personnel having the  
4 statutory authority to classify  
5 and appraise goods entering the  
6 United States.

7 “(bb) Personnel having the  
8 responsibility to act as principal  
9 point of contact and technical ex-  
10 perts with respect to goods enter-  
11 ing the United States, including  
12 responsibilities relating to collec-  
13 tion and deposit of duties, taxes,  
14 and fees.

15 “(cc) Such other personnel  
16 as the Commissioner determines  
17 to be necessary.

18 “(ii) ASSISTANT COMMISSIONER IN  
19 THE OFFICE OF INTERNATIONAL TRADE.—  
20 The assets, functions, and personnel trans-  
21 ferred to the Office of International Trade  
22 pursuant to clause (i) shall be under the  
23 authority of the Assistant Commissioner in  
24 the Office of International Trade.

1           “(iii) TRAINING.—Not later than 18  
2           months after the date of the enactment of  
3           the Customs Trade Enforcement and Fa-  
4           cilitation Act of 2012, the Commissioner  
5           shall ensure that sufficient training with  
6           respect to facilitating legitimate inter-  
7           national trade and enforcing the customs  
8           and trade laws of the United States has  
9           been provided to personnel transferred to  
10          the Office of International Trade pursuant  
11          to clause (i).

12          “(iv) LIMITATION ON FUNDS.—No  
13          funds appropriated to the U.S. Customs  
14          and Border Protection Agency may be  
15          used to transfer the assets, functions, or  
16          personnel of the Office of Field Operations  
17          to an office other than the Office of Inter-  
18          national Trade.”.

19          (C) by striking subparagraph (B);

20          (D) by redesignating subparagraphs (C)  
21          through (F) as subparagraphs (B) through (E),  
22          respectively;

23          (E) in subparagraph (B), as redesignated  
24          by subparagraph (D) of this paragraph, by  
25          striking “United States Customs and Border

1 Protection” and inserting “U.S. Customs and  
2 Border Protection Agency”; and

3 (F) in subparagraph (E), as redesignated  
4 by subparagraph (D) of this paragraph—

5 (i) by striking “United States Cus-  
6 toms and Border Protection” and inserting  
7 “U.S. Customs and Border Protection  
8 Agency”; and

9 (ii) by striking “subparagraph  
10 (E)(ii)” and inserting “subparagraph  
11 (D)(ii)”.

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

15 “(f) DEFINITIONS.—In this section—

16 “(1) the term ‘Commissioner’ means the Com-  
17 missioner of U.S. Customs and Border Protection;  
18 and

19 “(2) the terms ‘Commercial Customs Oper-  
20 ations Advisory Committee’, ‘commercial operations’,  
21 ‘customs and trade laws of the United States’, and  
22 ‘Trade Support Network’ have the meaning given  
23 such terms in section 2 of the Customs Trade Facili-  
24 tation and Enforcement Act of 2012.”.



1 (f) ESTABLISHMENT OF INTERAGENCY CUSTOMS RE-  
2 VIEW BOARD.—The Act of March 3, 1927 (44 Stat. 1381,  
3 chapter 348; 19 U.S.C. 2071 et seq.), is amended by in-  
4 serting after section 3 the following:

5 **“SEC. 4. ESTABLISHMENT OF INTERAGENCY CUSTOMS RE-**  
6 **VIEW BOARD.**

7 “(a) ESTABLISHMENT.—There is established an  
8 interagency Customs Review Board.

9 “(b) MEMBERSHIP.—The interagency Customs Re-  
10 view Board shall be comprised of the Commissioner, the  
11 Assistant Secretary for Policy in the Department of  
12 Homeland Security, the Assistant Secretary for Tax Pol-  
13 icy in the Department of the Treasury, the Under Sec-  
14 retary for International Trade in the Department of Com-  
15 merce, and 1 Deputy United States Trade Representative  
16 designated by the United States Trade Representative to  
17 serve on the interagency Customs Review Board. The  
18 interagency Customs Review Board shall be co-chaired by  
19 the Commissioner and the Assistant Secretary for Tax  
20 Policy in the Department of the Treasury.

21 “(c) REFERRAL.—The Commissioner of U.S. Cus-  
22 toms and Border Protection shall notify and provide full  
23 documentation to the interagency Customs Review Board  
24 not less than 30 days prior to publically proposing any  
25 change to a regulation, interpretation, or practice of the

1 Agency relating to commercial operations of the Agency  
2 that could reasonably be expected to affect compliance by  
3 the United States Government with its international trade  
4 obligations.

5 “(d) DUTIES.—The interagency Customs Review  
6 Board shall—

7 “(1) review any proposed change to a regula-  
8 tion, interpretation, or practice of the Agency re-  
9 ferred to the interagency Customs Review Board by  
10 the Commissioner under subsection (c) to determine  
11 if the change conforms to the international trade ob-  
12 ligations of the United States; and

13 “(2) advise the Commissioner of U.S. Customs  
14 and Border Protection, not later than 30 days after  
15 receiving notification of a proposed change under  
16 paragraph (1), as to whether or not and the extent  
17 to which the change conforms to the international  
18 trade obligations of the United States and other  
19 cross-border initiatives.

20 “(e) DEFINITION.—In this section, the term ‘com-  
21 mercial operations’ has the meaning given the term in sec-  
22 tion 2 of the Customs Trade Facilitation and Enforcement  
23 Act of 2012.”.

1 (g) COMPENSATION.—Section 5315 of title 5, United  
2 States Code, is amended by adding at the end the fol-  
3 lowing:

4 “Deputy Commissioner of U.S. Customs and  
5 Border Protection, Department of Homeland Secu-  
6 rity.”.

7 **SEC. 103. SEPARATE BUDGET FOR U.S. CUSTOMS AND BOR-**  
8 **DER PROTECTION AGENCY.**

9 (a) IN GENERAL.—The President shall include in  
10 each budget transmitted to Congress under section 1105  
11 of title 31, United States Code, a separate budget request  
12 for the commercial operations of the U.S. Customs and  
13 Border Protection Agency.

14 (b) REPEAL.—Section 414 of the Homeland Security  
15 Act of 2002 (6 U.S.C. 214), and the item relating to that  
16 section in the table of contents of that Act, are repealed.

17 **SEC. 104. REVOLVING FUND.**

18 The matter under the heading “REVOLVING FUND,  
19 BUREAU OF CUSTOMS” in the Treasury and Post Office  
20 Departments Appropriation Act, 1950 (63 Stat. 360,  
21 chapter 286; 19 U.S.C. 2074), is amended by striking  
22 “Bureau of Customs” and inserting “U.S. Customs and  
23 Border Protection Agency”.

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

2       The matter under the heading “BUREAU OF CUS-  
3 TOMS” in title I of the Treasury Department Appropria-  
4 tion Act 1940 (53 Stat. 660, chapter 115; 19 U.S.C.  
5 2076), is amended in the last proviso by striking “Bureau  
6 of Customs” and inserting “U.S. Customs and Border  
7 Protection Agency or U.S. Immigration and Customs En-  
8 forcement”.

9 **SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS**  
10 **PROVISIONS.**

11       Section 2 of the Act entitled “An Act to provide for  
12 advances of funds by special disbursing agents in connec-  
13 tion with the enforcement of Acts relating to narcotic  
14 drugs”, approved March 28, 1928 (19 U.S.C. 2077), is  
15 amended to read as follows:

16 **“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-**  
17 **VISIONS.**

18       “The Commissioner of U.S. Customs and Border  
19 Protection and the Director of U.S. Immigration and Cus-  
20 toms Enforcement, with the approval of the Secretary of  
21 Homeland Security and the Secretary of the Treasury, are  
22 each authorized to direct the advance of funds by the Fis-  
23 cal Service in the Department of the Treasury, in connec-  
24 tion with the enforcement of the customs and trade laws  
25 of the United States (as defined in section 2 of the Cus-  
26 toms Trade Facilitation and Enforcement Act of 2012).”.

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

2 Section 3 of the Act of March 28, 1928 (19 U.S.C.  
3 2078), is amended by striking “Commissioner of Cus-  
4 toms” and inserting “Commissioner of U.S. Customs and  
5 Border Protection or the Director of U.S. Immigration  
6 and Customs Enforcement”.

7 **SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**  
8 **REIMBURSEMENT.**

9 Section 4 of the Act of August 7, 1939 (53 Stat.  
10 1263, chapter 566; 19 U.S.C. 2079), is amended to read  
11 as follows:

12 **“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**  
13 **REIMBURSEMENT.**

14 “The provisions of this Act shall not affect payments  
15 made for the U.S. Customs and Border Protection Agency  
16 or U.S. Immigration and Customs Enforcement in foreign  
17 countries, or the right of any officer or employee of such  
18 Agencies to claim reimbursement for personal funds ex-  
19 pended in connection with the enforcement of the customs  
20 and trade laws of the United States (as defined in section  
21 2 of the Customs Trade Facilitation and Enforcement Act  
22 of 2012).”.

23 **SEC. 109. CUSTOMS ADMINISTRATION.**

24 Section 113 of the Customs and Trade Act of 1990  
25 (19 U.S.C. 2082) is amended to read as follows:

1 **“SEC. 113. CUSTOMS ADMINISTRATION.**

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

5               “(1) develop and implement accounting systems  
6 that accurately determine and report the allocation  
7 of the personnel and other resources of the U.S.  
8 Customs and Border Protection Agency and U.S.  
9 Immigration and Customs Enforcement among the  
10 various operational functions of each Agency, includ-  
11 ing merchandise processing and customs and trade  
12 law enforcement; and

13               “(2) for fiscal year 2013 and each subsequent  
14 fiscal year, develop and implement labor distribution  
15 surveys of major workforce activities within the U.S.  
16 Customs and Border Protection Agency and U.S.  
17 Immigration and Customs Enforcement to determine  
18 the cost of the various operational functions of each  
19 Agency and the extent to which the costs of one  
20 Agency are covered by the other Agency.

21       “(b) SURVEY REPORTS.—The Commissioner of U.S.  
22 Customs and Border Protection and the Director of U.S.  
23 Immigration and Customs Enforcement shall each, not  
24 later than December 31, 2013, and December 31 of each  
25 subsequent calendar year, submit to the Committee on Fi-  
26 nance of the Senate and the Committee on Ways and

1 Means of the House of Representatives a report on the  
2 results of the surveys implemented under paragraph (2)  
3 of subsection (a) for the preceding fiscal year.”.

4 **SEC. 110. DESIGNATION OF TRADE OVERSIGHT PER-**  
5 **SONNEL.**

6 Subsection (c) of section 412 of the Homeland Secu-  
7 rity Act of 2002 (6 U.S.C. 212(c)) is amended to read  
8 as follows:

9 “(c) DESIGNATION OF TRADE OVERSIGHT PER-  
10 SONNEL.—Not later than 90 days after the date of the  
11 enactment of the Customs Trade Facilitation and En-  
12 forcement Act of 2012, the Secretary of the Treasury shall  
13 designate and dedicate not less than 5 full-time equivalent  
14 personnel to work exclusively with the Deputy Assistant  
15 Secretary of the Treasury for Tax, Trade, and Tariff Pol-  
16 icy in the performance and oversight of customs revenue  
17 functions.”.

18 **SEC. 111. CONSULTATION ON TRADE AND CUSTOMS REV-**  
19 **ENUE FUNCTIONS.**

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

22 (1) in paragraph (1), by striking “on Depart-  
23 ment policies and actions that have” and inserting  
24 “not later than 30 days after proposing, and not

1 later than 30 days before finalizing, any Department  
2 policies, initiatives, or actions that will have”; and

3 (2) in paragraph (2)(A), by striking “not later  
4 than 30 days prior to the finalization of” and insert-  
5 ing “not later than 60 days before proposing, and  
6 not later than 60 days before finalizing,”.

7 **SEC. 112. 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) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) by striking “October 1, 1979” and  
14 inserting “October 1, 2012”; and

15 (ii) by striking “Department of the  
16 Treasury for the United States Customs  
17 Service” and inserting “Department of  
18 Homeland Security for the U.S. Customs  
19 and Border Protection Agency”;

20 (B) by striking paragraph (2) and insert-  
21 ing the following:

22 “(2) REQUIREMENT FOR AUTHORIZATION.—  
23 The authorization of the appropriations for the U.S.  
24 Customs and Border Protection Agency for each fis-  
25 cal year after fiscal year 2012 shall specify the



1 amount authorized for the fiscal year for the salaries  
2 and expenses of the Agency in conducting commer-  
3 cial operations.”; and

4 (C) by striking paragraph (3);

5 (2) by striking subsections (b), (c), and (d) and  
6 inserting the following:

7 “(b) AUTHORIZATION OF APPROPRIATIONS.—

8 “(1) IN GENERAL.—There are authorized to be  
9 appropriated for the salaries and expenses of the  
10 U.S. Customs and Border Protection Agency that  
11 are incurred in commercial operations—

12 “(A) not less than \$1,800,000,000 for fis-  
13 cal year 2013;

14 “(B) not less than \$1,817,000,000 for fis-  
15 cal year 2014; and

16 “(C) not less than \$1,830,000,000 for fis-  
17 cal year 2015.

18 “(2) CUSTOMS USER FEE ACCOUNT.—The mon-  
19 ies authorized to be appropriated pursuant to para-  
20 graph (1) for any fiscal year, except for such sums  
21 as may be necessary for the salaries and expenses of  
22 the U.S. Customs and Border Protection Agency  
23 that are incurred in connection with the processing  
24 of merchandise that is exempt from the fees imposed  
25 pursuant to section 13031(a) (9) and (10) of the

1 Consolidated Omnibus Budget Reconciliation Act of  
2 1985 (19 U.S.C. 58c(a) (9) and (10)), shall be ap-  
3 propriated from the Customs User Fee Account.

4 “(c) MANDATORY 10-DAY DEFERMENT.—No part of  
5 the funds appropriated under subsection (a) for any fiscal  
6 year may be used to provide less time for the collection  
7 of estimated duties than the 10-day deferment procedure  
8 in effect on January 1, 1981.

9 “(d) OVERTIME PAY LIMITATIONS; WAIVER.—No  
10 part of the funds appropriated pursuant to subsection (a)  
11 for any fiscal year may be used for administrative ex-  
12 penses to pay any customs officer overtime pay in an  
13 amount exceeding \$35,000 unless the Secretary of Home-  
14 land Security determines on an individual basis that pay-  
15 ment of overtime pay to such officer in an amount exceed-  
16 ing \$35,000 is necessary for national security purposes,  
17 to prevent excessive costs, or to meet emergency require-  
18 ments of the Agency.”;

19 (3) in subsection (e)—

20 (A) by striking “October 1, 1982” and in-  
21 serting “October 1, 2012”;

22 (B) by striking “Department of the Treas-  
23 ury for salaries of the United States Customs  
24 Service” and inserting “Department of Home-

1 land Security for salaries of the U.S. Customs  
2 and Border Protection Agency”; and

3 (C) by striking “to reflect” and all that  
4 follows and inserting “to reflect any adjustment  
5 in rates of basic pay made in accordance with  
6 subchapter I of chapter 53 of title 5, United  
7 States Code.”;

8 (4) by striking subsections (f) and (g) and in-  
9 serting the following:

10 “(f) USE OF SAVINGS RESULTING FROM ADMINIS-  
11 TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-  
12 penses result from the consolidation of administrative  
13 functions within the U.S. Customs and Border Protection  
14 Agency, the Commissioner of U.S. Customs and Border  
15 Protection shall apply the savings, to the extent the sav-  
16 ings are not needed to meet emergency requirements of  
17 the Agency, to strengthening the commercial operations  
18 of the Agency by increasing the number of personnel dedi-  
19 cated to administering such commercial operations.

20 “(g) ALLOCATION OF RESOURCES; REPORT TO CON-  
21 GRESSIONAL COMMITTEES.—The Commissioner of U.S.  
22 Customs and Border Protection shall notify the Com-  
23 mittee on Finance of the Senate and the Committee on  
24 Ways and Means of the House of Representatives at least  
25 180 days prior to taking any action that would—

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

4           “(2) result in any significant reduction in hours  
5 of operation or services rendered at any office of the  
6 U.S. Customs and Border Protection Agency or any  
7 United States port of entry;

8           “(3) eliminate or relocate any office of the U.S.  
9 Customs and Border Protection Agency;

10          “(4) eliminate any United States port of entry;  
11 or

12          “(5) significantly reduce the number of employ-  
13 ees assigned to any office or any function of the  
14 U.S. Customs and Border Protection Agency.”; and

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

16          “(i) DEFINITION.—In this section, the term ‘commer-  
17 cial operations’ has the meaning given such term in sec-  
18 tion 2 of the Customs Trade Facilitation and Enforcement  
19 Act of 2012.”.

20          (b) RESOURCE OPTIMIZATION MODEL.—Subsection  
21 (h) of section 301 of the Customs Procedural Reform and  
22 Simplification Act of 1978 is amended by striking “Re-  
23 source Allocation Model” each place it appears in the text  
24 and in the heading and inserting “Resource Optimization  
25 Model”.

1 (c) CONFORMING AMENDMENT.—Subsection (c) of  
2 section 5 of the Act of February 13, 1911 (19 U.S.C.  
3 267(e)), is amended to read as follows:

4 “(c) LIMITATIONS.—

5 “(1) FISCAL YEAR CAP.—The aggregate of  
6 overtime pay under subsection (a) of this section (in-  
7 cluding commuting compensation under subsection  
8 (a)(2)(B) of this section) and premium pay under  
9 subsection (b) of this section that a customs officer  
10 may be paid in any fiscal year may not exceed  
11 \$35,000 unless the Secretary of Homeland Security  
12 determines on an individual basis that payment of  
13 overtime pay to such officer in an amount exceeding  
14 \$35,000 is necessary for national security purposes,  
15 to prevent excessive costs, or to meet emergency re-  
16 quirements of the Agency.

17 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-  
18 TION.—A customs officer who receives overtime pay  
19 under subsection (a) of this section, or premium pay  
20 under subsection (b) of this section for time worked,  
21 may not receive pay or other compensation for that  
22 work under any other provision of law.”.

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

### 2 **SEC. 121. SEPARATE BUDGET FOR U.S. IMMIGRATION AND** 3 **CUSTOMS ENFORCEMENT.**

4 The President shall include in each budget trans-  
5 mitted to Congress under section 1105 of title 31, United  
6 States Code, a separate budget request of U.S. Immigra-  
7 tion and Customs Enforcement for the enforcement of the  
8 customs and trade laws of the United States.

### 9 **SEC. 122. 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 YEARS BEGINNING ON OR AFTER  
17 OCTOBER 1, 2012.—For the fiscal year beginning Oc-  
18 tober 1, 2012, and each fiscal year thereafter, there  
19 are authorized to be appropriated to the U.S. Immi-  
20 gration and Customs Enforcement of the Depart-  
21 ment of Homeland Security for the enforcement of  
22 the customs and trade laws of the United States  
23 only such sums as may be authorized by law.

24 “(2) SPECIFICATION OF AMOUNTS.—The au-  
25 thorization of the appropriations for the U.S. Immi-

1       gration and Customs Enforcement for each fiscal  
2       year after fiscal year 2012 shall specify the amount  
3       authorized for the fiscal year for the salaries and ex-  
4       penses of U.S. Immigration and Customs Enforce-  
5       ment for the enforcement of the customs and trade  
6       laws of the United States.

7       “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
8       are authorized to be appropriated for the salaries and ex-  
9       penses of the U.S. Immigration and Customs Enforcement  
10      that are incurred in enforcement of the customs and trade  
11      laws of the United States—

12             “(1) not less than \$86,000,000 for fiscal year  
13      2013;

14             “(2) not less than \$88,150,000 for fiscal year  
15      2014; and

16             “(3) not less than \$90,200,000 for fiscal year  
17      2015.

18       “(c) DEFINITION.—In this section, the term ‘customs  
19      and trade laws of the United States’ has the meaning  
20      given such term in section 2 of the Customs Trade Facili-  
21      tation and Enforcement Act of 2012.”.

## 22       **Subtitle C—Joint Strategic Plan**

### 23       **SEC. 131. JOINT STRATEGIC PLAN.**

24       (a) IN GENERAL.—Not later than June 30, 2013,  
25      and every 2 years thereafter, the Commissioner of U.S.

1 Customs and Border Protection and the Director of U.S.  
2 Immigration and Customs Enforcement shall jointly de-  
3 velop and submit to the Committee on Finance of the Sen-  
4 ate and the Committee on Ways and Means of the House  
5 of Representatives, a Joint Strategic Plan.

6 (b) CONTENTS.—The Joint Strategic Plan required  
7 under this section shall be comprised of a comprehensive  
8 multi-year plan for enforcing the customs and trade laws  
9 of the United States and for facilitating the international  
10 trade of the United States, and shall include—

11 (1) a summary of actions taken to date to bet-  
12 ter enforce the customs and trade laws of the United  
13 States and to better facilitate the international trade  
14 of the United States, including a description and  
15 analysis of specific performance measures to evalu-  
16 ate the progress of the U.S. Customs and Border  
17 Protection Agency and U.S. Immigration and Cus-  
18 toms Enforcement in meeting each such responsi-  
19 bility;

20 (2) a statement of objectives and plans for fur-  
21 ther improving the enforcement of the customs and  
22 trade laws of the United States and the facilitation  
23 of the international trade of the United States;

24 (3) a specific identification of the priority trade  
25 issues described in paragraph (3)(B)(ii) of section



1 2(d) of the Act of March 3, 1927 (44 Stat. 1381,  
2 chapter 348; 19 U.S.C. 2072(d)), as added by sec-  
3 tion 211(a) of this Act;

4 (4) a description of efforts made to improve  
5 consultation and coordination among Federal de-  
6 partments and agencies, and in particular between  
7 the U.S. Customs and Border Protection Agency  
8 and U.S. Immigration and Customs Enforcement,  
9 regarding the enforcement of the customs and trade  
10 laws of the United States and the facilitation of the  
11 international trade of the United States;

12 (5) a description of the training that has oc-  
13 curred to date within the U.S. Customs and Border  
14 Protection Agency and U.S. Immigration and Cus-  
15 toms Enforcement to improve such enforcement and  
16 facilitation, including training under section 217 of  
17 this Act;

18 (6) a specific identification of any domestic or  
19 international best practices that may further im-  
20 prove such enforcement and facilitation; and

21 (7) any legislative recommendations to further  
22 improve such enforcement of the customs and trade  
23 laws of the United States or facilitation.

24 (c) CONSULTATIONS.—

1           (1) IN GENERAL.—In developing the Joint  
2 Strategic Plan required under this section, the Com-  
3 missioner and the Director shall consult with—

4           (A) appropriate officials from the relevant  
5 Federal departments and agencies, including—

6                   (i) the Department of the Treasury;

7                   (ii) the Department of Agriculture;

8                   (iii) the Department of Commerce;

9                   (iv) the Department of Justice;

10                  (v) the Department of the Interior;

11                  (vi) the Department of Health and  
12 Human Services;

13                  (vii) the Food and Drug Administra-  
14 tion;

15                  (viii) the Consumer Product Safety  
16 Commission; and

17                  (ix) the Office of the United States  
18 Trade Representative; and

19           (B) the Commercial Customs Operations  
20 Advisory Committee (established in section 202  
21 of this Act).

22           (2) OTHER CONSULTATIONS.—In developing  
23 the Joint Strategic Plan required under this section,  
24 the Commissioner and the Director shall seek to  
25 consult with—

1 (A) appropriate officials from relevant for-  
2 eign law enforcement agencies and international  
3 organizations, including the World Customs Or-  
4 ganization; and

5 (B) interested parties in the private sector.

6 **TITLE II—CUSTOMS FACILITA-**  
7 **TION, TRADE ENFORCEMENT,**  
8 **AND TRANSPARENCY**

9 **Subtitle A—Customs Facilitation**  
10 **and Transparency**

11 **SEC. 201. CONSULTATIONS WITH RESPECT TO MUTUAL**  
12 **RECOGNITION AGREEMENTS.**

13 The Secretary of Homeland Security, with respect to  
14 any proposed Mutual Recognition Arrangement or similar  
15 agreement between the United States and a foreign gov-  
16 ernment providing for mutual recognition of supply chain  
17 security programs and customs revenue functions, shall—

18 (1) consult, not later than 30 days before initi-  
19 ating negotiations to enter into any such agreement,  
20 with the Committee on Finance of the Senate and  
21 the Committee on Ways and Means of the House of  
22 Representatives; and

23 (2) consult, not later than 30 days before enter-  
24 ing into any such agreement, with the Committee on

1 Finance of the Senate and the Committee on Ways  
2 and Means of the House of Representatives.

3 **SEC. 202. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**  
4 **COMMITTEE.**

5 (a) ESTABLISHMENT.—Not later than 60 days after  
6 the date of enactment of this Act, the Secretary of the  
7 Treasury and the Secretary of Homeland Security shall  
8 jointly establish a Commercial Customs Operations Advi-  
9 sory Committee (in this section referred to as the “Advi-  
10 sory Committee”).

11 (b) MEMBERSHIP.—

12 (1) IN GENERAL.—The Advisory Committee  
13 shall be comprised of—

14 (A) 20 individuals appointed under para-  
15 graph (2);

16 (B) the Assistant Secretary for Tax Policy  
17 of the Department of the Treasury and the As-  
18 sistant Secretary of Policy and Planning of the  
19 Department of Homeland Security, who shall  
20 jointly co-chair meetings of the Advisory Com-  
21 mittee; and

22 (C) the Commissioner of U.S. Customs  
23 and Border Protection and the Director of U.S.  
24 Immigration and Customs Enforcement, who

1 shall serve as deputy co-chairs of meetings of  
2 the Advisory Committee.

3 (2) APPOINTMENT.—

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

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

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

17 (ii) to ensure that a majority of the  
18 individuals are not members of the same  
19 political party.

20 (c) DUTIES.—The Advisory Committee established  
21 under subsection (a) shall—

22 (1) advise the Secretary of the Treasury and  
23 the Secretary of Homeland Security on matters in-  
24 volving the commercial operations of the U.S. Cus-  
25 toms and Border Protection Agency and U.S. Immi-

1       gration and Customs Enforcement, including advis-  
2       ing with respect to significant changes that are pro-  
3       posed with respect to agency regulations, policies, or  
4       practices;

5           (2) provide recommendations to the Secretary  
6       of the Treasury and the Secretary of Homeland Se-  
7       curity on improvements to the commercial operations  
8       of the U.S. Customs and Border Protection Agency  
9       and U.S. Immigration and Customs Enforcement;  
10      and

11           (3) perform such other functions relating to the  
12      commercial operations of the U.S. Customs and Bor-  
13      der Protection Agency and U.S. Immigration and  
14      Customs Enforcement as prescribed by law or as the  
15      Secretary of the Treasury and the Secretary of  
16      Homeland Security jointly direct.

17      (d) MEETINGS.—The Advisory Committee shall meet  
18      at the call of the Secretary of the Treasury and the Sec-  
19      retary of Homeland Security.

20      (e) ANNUAL REPORT.—Not later than December 31  
21      of each calendar year, the Advisory Committee shall sub-  
22      mit to the Committee on Finance of the Senate and the  
23      Committee on Ways and Means of the House of Rep-  
24      resentatives a report that—

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

3           (2) sets forth any recommendations of the Advi-  
4           sory Committee regarding the commercial operations  
5           of the U.S. Customs and Border Protection Agency  
6           and U.S. Immigration and Customs Enforcement.

7           (f) TERMINATION.—Section 14(a)(2)(B) of the Fed-  
8           eral Advisory Committee Act (5 U.S.C. App.; relating to  
9           the termination of advisory committees) shall not apply  
10          to the Advisory Committee.

11          (g) CONFORMING AMENDMENT.—

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

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

1 Advisory Committee established under subsection  
2 (a).

3 **SEC. 203. AUTOMATED COMMERCIAL ENVIRONMENT COM-**  
4 **PUTER SYSTEM.**

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

8 (1) in subparagraph (A)—

9 (A) by striking “2003, 2004, and 2005”  
10 and inserting “2013, 2014, and 2015”; and

11 (B) by striking “\$350,000,000” and in-  
12 serting “\$700,242,000”; and

13 (2) in subparagraph (B)—

14 (A) by striking “2003 through 2005” and  
15 inserting “2013 through 2015”;

16 (B) by striking “such amounts as are  
17 available in that Account” and inserting “not  
18 less than \$138,794,000”; and

19 (C) by striking “for the development” and  
20 inserting “to complete the development”.

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

24 “(3) **REPORT.**—



1           “(A) IN GENERAL.—Not later than De-  
2 cember 31, 2012, the Commissioner of U.S.  
3 Customs and Border Protection shall submit to  
4 the 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 a report specifying—

9           “(i) the plans of the U.S. Customs  
10 and Border Protection Agency and dead-  
11 lines for incorporating all cargo release  
12 data elements into the Automated Com-  
13 mercial Environment computer system not  
14 later than September 30, 2015, to conform  
15 with the admissibility criteria of agencies  
16 participating in the International Trade  
17 Data System identified pursuant to section  
18 411(d)(4)(A)(iii) of the Tariff Act of 1930;

19           “(ii) the Agency’s remaining priorities  
20 for incorporating entry summary data ele-  
21 ments, cargo manifest data elements, cargo  
22 financial data elements, and export ele-  
23 ments into the Automated Commercial En-  
24 vironment computer system; and

1                   “(iii) the Agency’s objectives, plans,  
2                   and deadlines for implementing the prior-  
3                   ities identified under clause (ii) not later  
4                   than September 30, 2015.

5                   “(B) UPDATE OF REPORTS.—Not later  
6                   than December 31, 2014, and September 30,  
7                   2015, the Commissioner shall submit to the  
8                   Committee on Appropriations and the Com-  
9                   mittee on Finance of the Senate and the Com-  
10                  mittee on Appropriations and the Committee on  
11                  Ways and Means of the House of Representa-  
12                  tives an updated report addressing each of the  
13                  matters referred to in subparagraph (A).”.

14                  (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
15                  PORT.—Not later than December 31, 2015, the Comp-  
16                  troller General of the United States shall submit to the  
17                  Committee on Appropriations and the Committee on Fi-  
18                  nance of the Senate and the Committee on Appropriations  
19                  and the Committee on Ways and Means of the House of  
20                  Representatives a report—

21                         (1) evaluating the cost and effectiveness of the  
22                         efforts of the U.S. Customs and Border Protection  
23                         Agency to complete the development, establishment,  
24                         and implementation of the Automated Commercial  
25                         Environment computer system;

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

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

13 **SEC. 204. INTERNATIONAL TRADE DATA SYSTEM.**

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

16               (1) in paragraph (1), by adding at the end the  
17          following:

18                       “(F) PROHIBITION ON OTHER SYSTEMS  
19                       FOR CARGO CLEARANCE.—The Secretary shall  
20                       ensure that each agency that participates in the  
21                       ITDS use the ITDS to collect and distribute  
22                       data and documentation for clearing or licens-  
23                       ing the importation or exportation of cargo, in-  
24                       cluding to authorize the release of cargo by the  
25                       U.S. Customs and Border Protection Agency,

1 and does not use any other system for such  
2 purposes.”;

3 (2) by redesignating paragraphs (4) through  
4 (7) as paragraphs (5) through (8), respectively;

5 (3) by inserting after paragraph (3) the fol-  
6 lowing:

7 “(4) INFORMATION TECHNOLOGY INFRASTRUC-  
8 TURE.—The head of each Federal agency that re-  
9 quires documentation for clearing or licensing the  
10 importation and exportation of cargo shall—

11 “(A) develop and maintain the necessary  
12 information technology infrastructure to sup-  
13 port the operation of the ITDS;

14 “(B) not later than March 31, 2013, enter  
15 into a memorandum of understanding, or take  
16 such other action as is necessary, to provide for  
17 the information sharing between the agency and  
18 the U.S. Customs and Border Protection Agen-  
19 cy necessary for the operation and maintenance  
20 of the ITDS; and

21 “(C) not later than March 31, 2013, iden-  
22 tify and transmit to the Commissioner of U.S.  
23 Customs and Border Protection the admissi-  
24 bility criteria and data elements required by the  
25 agency to authorize the release of cargo by the

1 U.S. Customs and Border Protection Agency  
 2 for incorporation into the operational  
 3 functionality of the Automated Commercial En-  
 4 vironment computer system.”;

5 (4) in paragraph (5), as redesignated, by strik-  
 6 ing “each fiscal year” and inserting “each of the fis-  
 7 cal years 2010 through 2013”; and

8 (5) in paragraph (8), as redesignated, by strik-  
 9 ing “section 9503(c) of the Omnibus Budget Rec-  
 10 onciliation Act of 1987 (19 U.S.C. 2071 note)” and  
 11 inserting “section 202 of the Customs Trade Facili-  
 12 tation and Enforcement Act of 2012”.

## 13 **Subtitle B—Trade Enforcement**

### 14 **CHAPTER 1—COMMERCIAL RISK**

#### 15 **ASSESSMENT TARGETING**

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

18 (a) IN GENERAL.—Section 2(d) of the Act of March  
 19 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d)),  
 20 as amended by section 102(d) of this Act, is further  
 21 amended by adding at the end the following:

22 “(3) COMMERCIAL TARGETING DIVISION AND  
 23 NATIONAL TARGETING AND ANALYSIS GROUPS.—

24 “(A) ESTABLISHMENT OF COMMERCIAL  
 25 TARGETING DIVISION.—

1           “(i) IN GENERAL.—The Secretary of  
2 Homeland Security shall establish and  
3 maintain within the Office of International  
4 Trade a Commercial Targeting Division.

5           “(ii) COMPOSITION.—The Commercial  
6 Targeting Division shall be composed of—

7                   “(I) headquarters personnel led  
8 by an Executive Director, who shall  
9 report to the Assistant Commissioner  
10 of the Office of International Trade;  
11 and

12                   “(II) individual National Tar-  
13 geting and Analysis Groups, each led  
14 by a Director who shall report to the  
15 Executive Director of the Commercial  
16 Targeting Division.

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

19                   “(I) to the development and con-  
20 duct of commercial risk assessment  
21 targeting with respect to cargo des-  
22 tined for the United States in accord-  
23 ance with subparagraph (C); and

24                   “(II) to issuing Trade Alerts de-  
25 scribed in subparagraph (D).

1                   “(B) NATIONAL TARGETING AND ANALYSIS  
2                   GROUPS.—

3                   “(i) IN GENERAL.—A National Tar-  
4                   geting and Analysis Group referred to in  
5                   subparagraph (A)(ii)(II) shall, at a min-  
6                   imum, be established for each priority  
7                   trade issue described in clause (ii).

8                   “(ii) PRIORITY TRADE ISSUES.—

9                   “(I) IN GENERAL.—The priority  
10                  trade issues described in this clause  
11                  are the following:

12                               “(aa) Agriculture programs.

13                               “(bb) Antidumping and  
14                               countervailing duties.

15                               “(cc) Import safety.

16                               “(dd) Intellectual property  
17                               rights.

18                               “(ee) Penalties.

19                               “(ff) Revenue.

20                               “(gg) Textiles.

21                               “(hh) Trade agreements.

22                   “(II) MODIFICATION.—The Com-  
23                   missioner is authorized to establish  
24                   new priority trade issues and elimi-  
25                   nate, consolidate, or otherwise modify

1 the priority trade issues described in  
2 this paragraph if the Commissioner—

3 “(aa) determines it nec-  
4 essary and appropriate to do so;  
5 and

6 “(bb) submits to the Com-  
7 mittee on Finance of the Senate  
8 and the Committee on Ways and  
9 Means of the House of Rep-  
10 resentatives a summary of the  
11 proposed changes to the priority  
12 trade issues not later than 60  
13 days before such changes are to  
14 take effect.

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

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

23 “(II) facilitating, promoting, and  
24 coordinating cooperation and the ex-  
25 change of information between the



1 U.S. Customs and Border Protection  
2 Agency, U.S. Immigration and Customs  
3 Enforcement, and other relevant  
4 Federal departments and agencies re-  
5 garding the Group’s priority trade  
6 issue; and

7 “(III) serving as the primary liai-  
8 son between the U.S. Customs and  
9 Border Protection Agency and the  
10 public regarding United States Gov-  
11 ernment activities regarding the  
12 Group’s priority trade issue, includ-  
13 ing—

14 “(aa) providing for receipt  
15 and transmission to the appro-  
16 priate U.S. Customs and Border  
17 Protection Agency office of alle-  
18 gations from interested parties in  
19 the private sector of violations of  
20 customs and trade laws of the  
21 United States of merchandise re-  
22 lating to the priority trade issue;

23 “(bb) obtaining information  
24 from the appropriate U.S. Cus-  
25 toms and Border Protection

1 Agency office on the status of  
2 any activities resulting from the  
3 submission of any such allega-  
4 tion, including any decision not  
5 to pursue the allegation, and pro-  
6 viding any such information to  
7 each interested party in the pri-  
8 vate sector that submitted the al-  
9 legation every 90 days after the  
10 allegation was received by the  
11 U.S. Customs and Border Pro-  
12 tection Agency; and

13 “(cc) notifying on a timely  
14 basis each interested party in the  
15 private sector that submitted  
16 such allegation of any civil or  
17 criminal actions taken by the  
18 U.S. Customs and Border Pro-  
19 tection Agency or other Federal  
20 department or agency resulting  
21 from the allegation.

22 “(C) COMMERCIAL RISK ASSESSMENT TAR-  
23 GETING.—In carrying out its duties with re-  
24 spect to commercial risk assessment targeting,  
25 the Commercial Targeting Division shall—

1           “(i) establish targeted risk assessment  
2 methodologies and standards—

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

10           “(II) for issuing, as appropriate,  
11 Trade Alerts described in subpara-  
12 graph (D); and

13           “(ii) to the extent practicable and oth-  
14 erwise authorized by law, use information  
15 available from the Automated Commercial  
16 System, the Automated Commercial Envi-  
17 ronment computer system, the Automated  
18 Targeting System, the Automated Export  
19 System, the International Trade Data Sys-  
20 tem, and the Treasury Enforcement Com-  
21 munications System, and any successor  
22 systems, to administer the methodologies  
23 and standards established under clause (i).

24           “(D) TRADE ALERTS.—

1           “(i) ISSUANCE.—Based upon the ap-  
2           plication of the targeted risk assessment  
3           methodologies and standards established  
4           under subparagraph (C), the Executive Di-  
5           rector of the Commercial Targeting Divi-  
6           sion and the Directors of the National  
7           Targeting and Analysis Groups may issue  
8           Trade Alerts to directors of United States  
9           ports of entry directing further inspection,  
10          or physical examination or testing, of spe-  
11          cific merchandise to ensure compliance  
12          with all applicable customs and trade laws  
13          and regulations administered by the U.S.  
14          Customs and Border Protection Agency.

15          “(ii) DETERMINATIONS NOT TO IM-  
16          PLEMENT TRADE ALERTS.—The director  
17          of a United States port of entry may deter-  
18          mine not to conduct further inspections, or  
19          physical examination or testing, pursuant  
20          to a Trade Alert issued under clause (i)  
21          if—

22                  “(I) the director finds that such  
23                  a determination is justified by port se-  
24                  curity interests; and

1           “(II) notifies the Assistant Com-  
2           missioner of the Office of Field Oper-  
3           ations of the U.S. Customs and Bor-  
4           der Protection Agency of the deter-  
5           mination and the reasons for the de-  
6           termination not later than 48 hours  
7           after making the determination.

8           “(iii) SUMMARY OF DETERMINATIONS  
9           NOT TO IMPLEMENT.—The Assistant Com-  
10          missioner of the Office of Field Operations  
11          of the U.S. Customs and Border Protec-  
12          tion Agency shall—

13                 “(I) compile an annual public  
14                 summary of all determinations by di-  
15                 rectors of United States ports of entry  
16                 under clause (ii) and the reasons for  
17                 those determinations; and

18                 “(II) submit the summary to the  
19                 Committee on Finance of the Senate  
20                 and the Committee on Ways and  
21                 Means of the House of Representa-  
22                 tives not later than December 31 of  
23                 each year.

24                 “(iv) INSPECTION DEFINED.—In this  
25                 subparagraph, the term ‘inspection’ means

1 the comprehensive evaluation process used  
2 by the U.S. Customs and Border Protec-  
3 tion Agency, other than physical examina-  
4 tion or testing, to permit the entry of mer-  
5 chandise into the United States, or the  
6 clearance of merchandise for transpor-  
7 tation in bond through the United States,  
8 for purposes of—

9 “(I) assessing duties;

10 “(II) identifying restricted or  
11 prohibited items; and

12 “(III) ensuring compliance with  
13 all applicable customs and trade laws  
14 and regulations administered by the  
15 Agency.”.

16 (b) USE OF TRADE DATA FOR COMMERCIAL EN-  
17 FORCEMENT PURPOSES.—Section 343(a) of the Trade Act  
18 of 2002 (19 U.S.C. 2071 note) is amended—

19 (1) in the first sentence of paragraph (2), by  
20 inserting “and to carry out commercial risk assess-  
21 ment targeting (as described in 2(d)(3)(C) of the  
22 Act of March 3, 1927 (44 Stat. 1381, chapter 348;  
23 19 U.S.C. 2072(d))” after “to ensure cargo safety  
24 and security”; and

25 (2) in paragraph (3)—

1 (A) by striking subparagraph (F); and  
2 (B) by redesignating subparagraphs (G)  
3 through (L) as subparagraphs (F) through (K).

4 **SEC. 212. CENTERS OF EXCELLENCE AND EXPERTISE.**

5 Section 2(d) of the Act of March 3, 1927 (44 Stat.  
6 1381, chapter 348; 19 U.S.C. 2072(d)), as amended by  
7 sections 102(d) and 211 of this Act, is further amended  
8 by adding at the end the following:

9 “(4) CENTERS OF EXCELLENCE AND EXPERTISE.—  
10 TISE.—

11 “(A) ESTABLISHMENT.—The Secretary of  
12 Homeland Security is authorized to establish  
13 and maintain within the Office of International  
14 Trade Centers of Excellence and Expertise.

15 “(B) COMPOSITION.—Each Center of Ex-  
16 cellence and Expertise shall be composed of  
17 headquarters and field personnel of the U.S.  
18 Customs and Border Protection Agency led by  
19 an Executive Director, who shall report to the  
20 Assistant Commissioner of the Office of Inter-  
21 national Trade.

22 “(C) DUTIES.—Each Center of Excellence  
23 and Expertise shall be dedicated—

24 “(i) to facilitating legitimate trade  
25 through increasing specific industry knowl-

1 edge and uniformity of cargo clearance  
2 procedures;

3 “(ii) to improving enforcement efforts  
4 of priority trade issues described in para-  
5 graph (3)(B)(ii) in specific industry sectors  
6 through application of targeting informa-  
7 tion from the Commercial Targeting Divi-  
8 sion established under paragraph (3)(A)  
9 and from other means of verifications;

10 “(iii) to developing and implementing  
11 measurable benefits to the trade commu-  
12 nity;

13 “(iv) to fostering partnerships  
14 through the expansion of trade programs  
15 such as Importer Self Assessment program  
16 and other trusted partner programs;

17 “(v) to developing applicable perform-  
18 ance measurements to meet internal effi-  
19 ciency and effectiveness goals; and

20 “(vi) to increasing the accuracy and  
21 completeness of international trade data  
22 and facilitate a more efficient flow of infor-  
23 mation between Federal departments and  
24 agencies.”.



1 **SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
2 **TION AND ENFORCEMENT MEASURES.**

3 (a) CONTENTS OF REPORT.—The Inspector General  
4 of the Department of Homeland Security shall, at the  
5 times specified in subsection (b), submit to the Committee  
6 on Finance of the Senate and the Committee on Ways and  
7 Means of the House of Representatives a report assessing  
8 the following, with respect to the 2-fiscal-year period to  
9 which the report applies:

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

13 (A) the collection of countervailing and  
14 antidumping duties;

15 (B) the assessment and collection of com-  
16 mercial fines and penalties; and

17 (C) the adequacy of the policies of the  
18 Agency with respect to monitoring and tracking  
19 of merchandise transported in bond and col-  
20 lecting duties, as appropriate.

21 (2) The effectiveness of actions taken by the  
22 U.S. Customs and Border Protection Agency to  
23 measure accountability and performance with re-  
24 spect to revenue protection.

25 (3) The number and outcome of investigations  
26 instituted by the U.S. Customs and Border Protec-

1       tion Agency with respect to the underpayment of du-  
2       ties.

3           (4) The adequacy of training with respect to  
4       the collection of duties provided for personnel of the  
5       U.S. Customs and Border Protection Agency.

6       (b) **TIMING OF REPORT.**—The report under sub-  
7       section (a) shall be submitted not later than March 31,  
8       2014, and not later than March 31 of each second year  
9       thereafter, with respect to the 2-fiscal-year period ending  
10      on September 30 of the preceding calendar year.

11      **SEC. 214. REPORT ON SECURITY AND REVENUE MEASURES**  
12                              **WITH RESPECT TO MERCHANDISE TRANS-**  
13                              **PORTED IN BOND.**

14      (a) **IN GENERAL.**—Not later than December 31 of  
15      2013, 2014, and 2015 the Secretary of Homeland Secu-  
16      rity and the Secretary of the Treasury shall jointly submit  
17      to the Committee on Finance of the Senate and the Com-  
18      mittee on Ways and Means of the House of Representa-  
19      tives a report on efforts undertaken by the U.S. Customs  
20      and Border Protection Agency to ensure the secure trans-  
21      portation of merchandise in bond through the United  
22      States and the collection of revenue owed upon the entry  
23      of such merchandise into the United States for consump-  
24      tion.

1 (b) CONTENTS.—The report required by subsection  
2 (a) shall include information, for the fiscal year preceding  
3 the submission of the report, on—

4 (1) the overall number of entries of merchan-  
5 dise for transportation in bond through the United  
6 States;

7 (2) the ports at which merchandise arrives in  
8 the United States for transportation in bond and at  
9 which records of the arrival of such merchandise are  
10 generated;

11 (3) the average time taken to reconcile such  
12 records with the records at the final destination of  
13 the merchandise in the United States to demonstrate  
14 that the merchandise reaches its final destination or  
15 is re-exported;

16 (4) the average time taken to transport mer-  
17 chandise in bond from the port at which the mer-  
18 chandise arrives in the United States to its final des-  
19 tination in the United States;

20 (5) the total amount of duties, taxes, and fees  
21 owed with respect to shipments of merchandise  
22 transported in bond and the total amount of such  
23 duties, taxes, and fees paid;

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

4           (7) the number of entries that remain  
5 unreconciled.

6 **SEC. 215. REPORT ON EFFECTIVENESS OF TRADE EN-**  
7 **FORCEMENT ACTIVITIES.**

8           (a) IN GENERAL.—Not later than 1 year after the  
9 date of enactment of this Act, the Comptroller General  
10 of the United States shall submit to the Committee on  
11 Finance of the Senate and the Committee on Ways and  
12 Means of the House of Representatives a report on the  
13 effectiveness of trade enforcement activities of the U.S.  
14 Customs and Border Protection Agency.

15           (b) CONTENTS.—The report shall include—

16           (1) a description of the use of resources, results  
17 of audits and verifications, targeting, organization,  
18 and training of the U.S. Customs and Border Pro-  
19 tection Agency; and

20           (2) a description of trade enforcement activities  
21 to address undervaluation, transshipment, legitimacy  
22 of entities making entry, protection of revenues,  
23 fraud prevention and detection, and penalties, in-  
24 cluding intentional misclassification, inadequate  
25 bonding, and other misrepresentations.

1 **SEC. 216. PRIORITIES AND PERFORMANCE STANDARDS**  
2 **FOR CUSTOMS MODERNIZATION, TRADE FA-**  
3 **CILITATION, AND TRADE ENFORCEMENT**  
4 **FUNCTIONS AND PROGRAMS.**

5 (a) **PRIORITIES AND PERFORMANCE STANDARDS.**—

6 (1) **IN GENERAL.**—The Commissioner of U.S.  
7 Customs and Border Protection, in consultation with  
8 the Committee on Ways and Means of the House of  
9 Representatives and the Committee on Finance of  
10 the Senate, shall establish priorities and perform-  
11 ance standards to measure the development and lev-  
12 els of achievement of the Customs modernization,  
13 trade facilitation, and trade enforcement functions  
14 and programs described in subsection (b).

15 (2) **MINIMUM PRIORITIES AND STANDARDS.**—

16 Such priorities and performance standards shall, at  
17 a minimum, include priorities and standards relating  
18 to efficiency, outcome, output, and other types of ap-  
19 plicable measures.

20 (b) **FUNCTIONS AND PROGRAMS DESCRIBED.**—The  
21 functions and programs referred to in subsection (a) are  
22 the following:

23 (1) The Automated Commercial Environment  
24 computer system authorized under section  
25 13031(f)(5) of the Consolidated Omnibus Budget

1 and Reconciliation Act of 1985 (19 U.S.C.  
2 58c(f)(5)).

3 (2) Each of the priority trade issues described  
4 in paragraph (3)(B)(ii) of section 2(d) of the Act of  
5 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
6 U.S.C. 2072(d)), as added by section 211(a) of this  
7 Act.

8 (3) The Centers of Excellence and Expertise de-  
9 scribed in section 212(c) of this Act.

10 (4) Drawback for exported merchandise under  
11 section 313 of the Tariff Act of 1930 (19 U.S.C.  
12 1313), as amended by section 404 of this Act.

13 (5) Transactions relating to imported merchan-  
14 dise in bond.

15 (6) Collection of countervailing duties assessed  
16 under subtitle A of title VII of the Tariff Act of  
17 1930 (19 U.S.C. 1671 et seq.) and antidumping du-  
18 ties assessed under subtitle B of title VII of the Tar-  
19 iff Act of 1930 (19 U.S.C. 1673 et seq.).

20 (7) The expedited clearance of cargo.

21 (8) The issuance of regulations and rulings.

22 (9) The issuance of Regulatory Audit Reports.

23 (c) SUBMISSION TO CONGRESS.—

24 (1) IN GENERAL.—The Commissioner of U.S.  
25 Customs and Border Protection shall submit to the

1 Committee on Ways and Means of the House of  
2 Representatives and the Committee on Finance of  
3 the Senate a description of the priorities and per-  
4 formance standards referred to in subsection (a) not  
5 later than 180 days after the date of enactment of  
6 this Act.

7 (2) PROPOSED CHANGES.—The Commissioner  
8 of U.S. Customs and Border Protection shall submit  
9 to the congressional committees referred to in para-  
10 graph (1) a description of any changes to the prior-  
11 ities and performance standards referred to in sub-  
12 section (a) not later than 30 days before such  
13 changes are to take effect.

14 (d) REPORT.—Not later than December 31, 2013,  
15 and December 31 of each year thereafter, the Commis-  
16 sioner of U.S. Customs and Border Protection shall sub-  
17 mit to the Committee on Ways and Means of the House  
18 of Representatives and the Committee on Finance of the  
19 Senate a report on the implementation of this section for  
20 the previous fiscal year.

21 **SEC. 217. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**  
22 **TO CLASSIFY AND APPRAISE IMPORTED AR-**  
23 **TICLES AND TO IMPROVE TRADE ENFORCE-**  
24 **MENT EFFORTS.**

25 (a) IN GENERAL.—

1           (1) ESTABLISHMENT.—The Commissioner of  
2 U.S. Customs and Border Protection and the Direc-  
3 tor of U.S. Immigration and Customs Enforcement  
4 shall establish and carry out on a fiscal year basis  
5 educational seminars to—

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

11           (B) improve the trade enforcement efforts  
12 of U.S. Customs and Border Protection Agency  
13 personnel and U.S. Immigration and Customs  
14 Enforcement personnel.

15           (2) LOCATION.—Each educational seminar  
16 under this section shall be located at a United  
17 States port of entry or a Center of Excellence and  
18 Expertise described in section 212(c) of this Act.

19           (b) CONTENT.—

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



1 section to U.S. Customs and Border Protection  
2 Agency personnel and, as appropriate, to U.S. Immi-  
3 gration and Customs Enforcement Agency personnel  
4 on the following:

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

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

16 (C) Customs valuation.

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

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

1       toms and Border Protection Agency personnel and,  
2       as appropriate, to U.S. Immigration and Customs  
3       Enforcement Agency personnel to identify opportuni-  
4       ties to enhance enforcement of the following:

5               (A) Collection of countervailing duties as-  
6               sessed under subtitle A of title VII of the Tariff  
7               Act of 1930 (19 U.S.C. 1671 et seq.) and anti-  
8               dumping duties assessed under subtitle B of  
9               title VII of the Tariff Act of 1930 (19 U.S.C.  
10              1673 et seq.).

11             (B) Addressing evasion of duties on im-  
12             ports of textiles.

13             (C) Protection of intellectual property  
14             rights.

15             (D) Enforcement of child labor laws.

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

21             (c) SELECTION PROCESS.—

22             (1) IN GENERAL.—The Commissioner shall es-  
23             tablish a process to solicit, evaluate, and select inter-  
24             ested parties in the private sector for purposes of as-  
25             sisting in providing instruction and related instruc-

1 tional materials described in subsection (b) at each  
2 educational seminar under this section.

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

7 (A) availability and usefulness;

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

11 (C) other appropriate criteria established  
12 by the Commissioner.

13 (3) PUBLIC AVAILABILITY.—The Commissioner  
14 shall publish in the Federal Register a detailed de-  
15 scription of the process established under paragraph  
16 (1) and the criteria established under paragraph (2).

17 (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-  
18 TERTVAILING ORDERS.—

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

1 or 1673e) upon the request of a petitioner in an ac-  
2 tion underlying such countervailing or antidumping  
3 duty order.

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

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

12 (f) REPORTING.—Beginning September 30, 2013, the  
13 Commissioner and Director shall submit to the Committee  
14 on Ways and Means of the House of Representatives and  
15 the Committee on Finance of the Senate an annual report  
16 on the effectiveness of educational seminars under this  
17 section.

18 (g) DEFINITIONS.—In this section:

19 (1) COMMISSIONER.—The term “Commis-  
20 sioner” means the Commissioner of U.S. Customs  
21 and Border Protection.

22 (2) DIRECTOR.—The term “Director” means  
23 the Director of U.S. Immigration and Customs En-  
24 forcement.

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

5           (4) U.S. CUSTOMS AND BORDER PROTECTION  
6 AGENCY PERSONNEL.—The term “U.S. Customs  
7 and Border Protection Agency personnel” means im-  
8 port specialists, auditors, and other appropriate em-  
9 ployees of the U.S. Customs and Border Protection  
10 Agency.

11           (5) U.S. IMMIGRATION AND CUSTOMS ENFORCE-  
12 MENT AGENCY PERSONNEL.—The term “U.S. Immi-  
13 grations and Customs Enforcement Agency per-  
14 sonnel” means Homeland Security Investigations Di-  
15 rectorate personnel and other appropriate employees  
16 of the U.S. Immigrations and Customs Enforcement  
17 Agency.

## 18 **CHAPTER 2—IMPORTER REQUIREMENTS**

### 19 **SEC. 221. IMPORTER OF RECORD PROGRAM.**

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

1 (b) REQUIREMENTS.—The Secretary of Homeland  
2 Security shall ensure that, as part of the importer of  
3 record program, the U.S. Customs and Border Protection  
4 Agency—

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

8 (A) criteria to ensure sufficient informa-  
9 tion is collected to allow the U.S. Customs and  
10 Border Protection Agency to verify the exist-  
11 ence of the importer requesting the importer of  
12 record number;

13 (B) criteria to ensure sufficient informa-  
14 tion is collected to allow the U.S. Customs and  
15 Border Protection Agency to identify linkages  
16 or other affiliations between importers that are  
17 requesting or have been assigned importer of  
18 record numbers; and

19 (C) criteria to ensure sufficient informa-  
20 tion is collected to allow the U.S. Customs and  
21 Border Protection Agency to identify changes in  
22 address and corporate structure of importers;

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



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

7           “(2) MINIMUM REQUIREMENTS.—The regula-  
8       tions shall, at a minimum, require customs brokers  
9       to implement, and importers (after being given ade-  
10      quate notice) to comply with, reasonable procedures  
11      for—

12           “(A) collecting the identity of importers,  
13      including nonresident importers, seeking to im-  
14      port merchandise into the United States to the  
15      extent reasonable and practicable; and

16           “(B) maintaining records of the informa-  
17      tion used to substantiate a person’s identity, in-  
18      cluding name, address, and other identifying in-  
19      formation.

20           “(3) PENALTIES.—Any customs broker who  
21      fails to collect information required under the regu-  
22      lations prescribed under this subsection shall be lia-  
23      ble to the United States, at the discretion of the  
24      Secretary, for a monetary penalty not to exceed  
25      \$10,000 for each violation of those regulations and



1 subject to revocation or suspension of a license or  
2 permit of the customs broker pursuant to the proce-  
3 dures set forth in subsection (d).

4 “(4) DEFINITIONS.—In this subsection, the  
5 terms ‘importer’ and ‘nonresident importer’ have the  
6 meaning given such terms in section 2 of the Cus-  
7 toms Trade Facilitation and Enforcement Act of  
8 2012.”.

9 (b) STUDY AND REPORT REQUIRED.—Not later than  
10 180 days after the date of enactment of this Act, the Com-  
11 missioner of U.S. Customs and Border Protection shall  
12 submit to Congress a report containing recommendations  
13 for—

14 (1) determining the most timely and effective  
15 way to require foreign nationals to provide customs  
16 brokers with appropriate and accurate information,  
17 comparable to that which is required of United  
18 States nationals, concerning the identity, address,  
19 and other related information relating to such for-  
20 eign nationals necessary to enable customs brokers  
21 to comply with the requirements of section 641(i) of  
22 the Tariff Act of 1930 (as added by subsection (a));  
23 and

24 (2) establishing a system for customs brokers to  
25 review information maintained by relevant Federal

1 agencies for purposes of verifying the identities of  
2 importers, including nonresident importers, seeking  
3 to import merchandise into the United States.

4 **SEC. 223. ESTABLISHMENT OF “NEW IMPORTER” PROGRAM.**

5 (a) IN GENERAL.—Not later than 180 days after the  
6 date of the enactment of this Act, the Commissioner of  
7 U.S. Customs and Border Protection shall establish a new  
8 importer program that directs the U.S. Customs and Bor-  
9 der Protection Agency to adjust bond amounts for new  
10 importers based on the level of risk assessed by the U.S.  
11 Customs and Border Protection Agency for protection of  
12 revenue of the Federal Government.

13 (b) REQUIREMENTS.—The Commissioner shall en-  
14 sure that, as part of the new importer program established  
15 under subsection (a), the U.S. Customs and Border Pro-  
16 tection Agency—

17 (1) develops risk assessment guidelines for new  
18 importers to determine if and to what extent—

19 (A) to adjust bond amounts of imported  
20 products of new importers; and

21 (B) to increase screening of imported prod-  
22 ucts of new importers;

23 (2) develops procedures to ensure increased  
24 oversight of imported products of new importers re-  
25 lating to the enforcement of the priority trade issues

1 described in paragraph (3)(B)(ii) of section 2(d) of  
2 the Act of March 3, 1927 (44 Stat. 1381, chapter  
3 348; 19 U.S.C. 2072(d)), as added by section 211(a)  
4 of this Act;

5 (3) develops procedures to ensure increased  
6 oversight of imported products of new importers by  
7 Centers of Excellence and Expertise established  
8 under section 212; and

9 (4) establishes a centralized database of new  
10 importers to ensure accuracy of information that is  
11 required to be provided by new importers to the U.S.  
12 Customs and Border Protection Agency.

13 **SEC. 224. REQUIREMENTS APPLICABLE TO NON-RESIDENT**  
14 **IMPORTERS.**

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

18 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**  
19 **DENT IMPORTERS.**

20 “(a) IN GENERAL.—Except as provided in subsection  
21 (c), if an importer of record under section 484 of this Act  
22 is not a resident of the United States, the Commissioner  
23 of U.S. Customs and Border Protection shall require the  
24 non-resident importer to designate a resident agent in the

1 United States subject to the requirements described in  
2 subsection (b).

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

5 “(1) The resident agent shall be authorized to  
6 accept service of process against the non-resident  
7 importer in connection with the importation of mer-  
8 chandise.

9 “(2) The resident agent shall be liable to the  
10 United States for payment of duties and penalties or  
11 other fines issued by the Secretary of Homeland Se-  
12 curity or the Commissioner if the Secretary or Com-  
13 missioner is unable to collect such duties and pen-  
14 alties or other fines from such non-resident importer  
15 in connection with the importation of merchandise.

16 “(3) The Secretary of the Treasury may require  
17 the resident agent to secure a bond or other security  
18 in connection with the importation of merchandise  
19 as the Secretary may deem necessary for the protec-  
20 tion of the revenue or to assure compliance with any  
21 provision of law, regulation, or instruction which the  
22 Secretary of the Commissioner may be authorized to  
23 enforce.

24 “(4) The Commissioner of U.S. Customs and  
25 Border Protection shall require the non-resident im-

1 porter to establish a power of attorney with the resi-  
2 dent agent in connection with the importation of  
3 merchandise.

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

10 “(d) PENALTIES.—

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

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

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

1           “(4) DEFINITION.—In this subsection, the term  
2           ‘customs and trade laws of the United States’ has  
3           the meaning given such term in section 2 of the  
4           Customs Trade Facilitation and Enforcement Act of  
5           2012.”.

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

13       **SEC. 225. CERTIFIED IMPORTER PROGRAM.**

14          (a) INTERAGENCY COMMITTEE.—

15               (1) ESTABLISHMENT AND MEMBERSHIP.—

16               There is established an interagency committee com-  
17               posed of representatives of each covered Federal  
18               agency.

19               (2) CHAIRPERSON.—The Commissioner of U.S.  
20               Customs and Border Protection shall serve as the  
21               chairperson of the interagency committee.

22          (b) DUTIES.—The interagency committee shall—

23               (1) not later than December 30, 2014, and in  
24               consultation with interested parties in the private

1 sector, establish a certified importer program as de-  
2 scribed in subsection (c); and

3 (2) assess and make recommendations with re-  
4 spect to other trade facilitation benefits for certified  
5 importers.

6 (c) CERTIFIED IMPORTER PROGRAM.—

7 (1) IN GENERAL.—The certified importer pro-  
8 gram described in this subsection is a program to  
9 authorize the release of cargo imported by a certified  
10 importer on an expedited basis that is subject to  
11 documentation for clearing or licensing the importa-  
12 tion or exportation of such cargo by one or more  
13 covered Federal agencies.

14 (2) CLEARANCE.—Such release of cargo shall  
15 include clearance through the Automated Commer-  
16 cial Environment computer system authorized under  
17 section 13031(f)(5) of the Consolidated Omnibus  
18 Budget and Reconciliation Act of 1985 (19 U.S.C.  
19 58c(f)(5)), as amended by section 203 of this Act,  
20 or its predecessor system upon transmission of data  
21 governing entry and immediate delivery.

22 (d) DEFINITIONS.—In this section:

23 (1) CERTIFIED IMPORTER.—The term “cer-  
24 tified importer” means an importer that—

1 (A)(i) is a validated Tier 2 or Tier 3 par-  
2 ticipant in the Customs-Trade Partnership  
3 Against Terrorism program established under  
4 subtitle B of title II of the SAFE Port Act (6  
5 U.S.C. 961 et seq.); and

6 (ii) is a participant in good standing of the  
7 U.S. Customs and Border Protection Agency's  
8 importer self-assessment program; and

9 (B) where applicable, participants in good  
10 standing in one or more programs maintained  
11 by a covered Federal agency to formally identify  
12 entities that are highly compliant with the cov-  
13 ered Federal agency's requirements and which  
14 maintain a rigorous system of internal controls  
15 and system of records to promote and document  
16 such compliance.

17 (2) COVERED FEDERAL AGENCY.—The term  
18 “covered Federal agency” means a Federal depart-  
19 ment or agency that requires documentation for  
20 clearing or licensing the importation or exportation  
21 of cargo.

22 (e) REPORT.—

23 (1) IN GENERAL.—Not later than March 31,  
24 2014, the Commissioner of U.S. Customs and Bor-  
25 der Protection shall submit to the Committee on Fi-



1 nance of the Senate and the Committee on Ways  
2 and Means of the House of Representatives a report  
3 assessing the progress in establishing the certified  
4 importer program as described in subsection (c) and  
5 coordination among the Commissioner and the heads  
6 of each covered Federal agency in facilitating the  
7 implementation of the certified importer program.

8 (2) UPDATE.—Not later than December 31,  
9 2015, the Commissioner of U.S. Customs and Bor-  
10 der Protection shall submit to the Committee on Fi-  
11 nance of the Senate and the Committee on Ways  
12 and Means of the House of Representatives an up-  
13 date of the report required under paragraph (1).

14 **CHAPTER 3—IMPORT-RELATED PROTEC-**  
15 **TION OF INTELLECTUAL PROPERTY**  
16 **RIGHTS**

17 **SEC. 231. EXCHANGE OF INFORMATION RELATED TO**  
18 **TRADE ENFORCEMENT.**

19 The Tariff Act of 1930 is amended by inserting after  
20 section 628 (19 U.S.C. 1628) the following new section:

21 **“SEC. 628A. EXCHANGE OF INFORMATION RELATED TO**  
22 **TRADE ENFORCEMENT.**

23 “(a) SHARING OF INFORMATION RELATING TO COPY-  
24 RIGHTS AND REGISTERED MARKS.—

1           “(1) SHARING OF INFORMATION AND SAM-  
2 PLES.—Notwithstanding any other provision of law,  
3 the Secretary is authorized, at the time that mer-  
4 chandise is presented for examination and there-  
5 after, to provide to the owner of a copyright or a  
6 registered mark, with notification to the importer of  
7 record—

8           “(A) any information appearing on the  
9 merchandise or its retail packaging,

10           “(B) a sample, or digital image, of the  
11 merchandise and its retail packaging, or

12           “(C) if a sample is provided under sub-  
13 paragraph (B), any packing material accom-  
14 panying the sample that bears either a mark  
15 suspected of being a counterfeit mark of the  
16 registered mark, or a work suspected of infring-  
17 ing the copyright,

18 as presented to the United States Customs and Bor-  
19 der Protection Agency, without redaction, whether  
20 imported into or exported from, or attempted to be  
21 exported from, the United States, to assist the Sec-  
22 retary in determining whether the merchandise,  
23 packaging, or packing material infringes the copy-  
24 right or bears or consists of a counterfeit mark of  
25 the registered mark.

1 “(2) NONDISCLOSURE.—

2 “(A) IN GENERAL.—Any owner of a copy-  
3 right or a registered mark to whom informa-  
4 tion, a sample, an image, or material described  
5 in subparagraph (A), (B), or (C) of paragraph  
6 (1) is provided under paragraph (1) may not  
7 disclose it to any other person or use it for a  
8 purpose other than the purpose described in  
9 paragraph (1).

10 “(B) EXCEPTION.—Subparagraph (A)  
11 does not apply in the case of information, a  
12 sample, an image, or material that is disclosed  
13 or used in a civil action for infringement of a  
14 copyright under title 17, United States Code, or  
15 infringement of a registered mark under the  
16 Lanham Act.

17 “(C) USE IN JUDICIAL PROCEEDINGS  
18 BARRED.—Information, samples, images, or  
19 material described in subparagraph (A), (B), or  
20 (C) of paragraph (1), or information obtained  
21 from the provision of information, samples, im-  
22 ages, or material under any such subparagraph,  
23 may not be used by the owner of a copyright or  
24 registered mark in any judicial proceeding,

1           other than a proceeding described in subpara-  
2           graph (B).

3           “(3) BONDING REQUIREMENTS.—The Secretary  
4           may impose bonding requirements on the owner of  
5           the copyright or registered mark as a condition of  
6           disclosure of information and the provision of sam-  
7           ples under this subsection.

8           “(4) IMPLEMENTATION.—

9           “(A) REGULATIONS.—Not later than the  
10          90th day after the date of the enactment of this  
11          section, the Secretary shall promulgate revised  
12          regulations to carry out this subsection. Until  
13          such time as the Secretary promulgates the re-  
14          vised regulations, and notwithstanding section  
15          818(g)(2) of the National Defense Authoriza-  
16          tion Act of 2012 (10 U.S.C. 2302 note; Public  
17          Law 112–81), those regulations in effect on the  
18          date of the enactment of this section imple-  
19          menting section 818(g)(1) of the National De-  
20          fense Authorization Act of 2012 shall be in ef-  
21          fect, except to the extent such regulations limit  
22          the application of this subsection.

23          “(B) INFORMATION SHARING PROC-  
24          ESSES.—

25          “(i) FOR IMPORTERS.—

1                   “(I) IN GENERAL.—The Sec-  
2                   retary is authorized to establish a  
3                   clearance process for those importers  
4                   of record who wish to participate in  
5                   the process to allow for or accelerate  
6                   the release of merchandise from the  
7                   custody of the United States Customs  
8                   and Border Protection Agency without  
9                   the provision under paragraph (1),  
10                  prior to seizure of the merchandise, of  
11                  information, samples, images, or ma-  
12                  terial with respect to the merchandise.

13                  “(II) LIMITATION ON SHARING  
14                  OF INFORMATION.—In the case of an  
15                  importer of record that participates in  
16                  the process under subclause (I), no in-  
17                  formation, samples, images, or mate-  
18                  rial described in subparagraph (A),  
19                  (B), or (C) of paragraph (1) of mer-  
20                  chandise of that importer may be pro-  
21                  vided, without redaction, to the owner  
22                  of a copyright or registered mark  
23                  prior to seizure of the merchandise.

24                  “(ii) FOR OWNERS OF COPYRIGHTS  
25                  AND REGISTERED MARKS.—

1 “(I) IN GENERAL.—

2 “(aa) ESTABLISHMENT.—

3 The Secretary shall establish a  
4 process or processes for those  
5 owners of copyrights and owners  
6 of registered marks that wish to  
7 participate in the process or  
8 processes, through which any  
9 sharing of information, samples,  
10 images, and material under para-  
11 graph (1) will be carried out be-  
12 fore the notification to the im-  
13 porter of record referred to in  
14 paragraph (1) is made, subject to  
15 the limitation under subclause  
16 (II) of clause (i).

17 “(bb) INELIGIBILITY.—An  
18 owner of a copyright or a reg-  
19 istered mark shall not be eligible  
20 to participate in a process de-  
21 scribed in item (aa) if that owner  
22 of a copyright or a registered  
23 mark has violated the prohibi-  
24 tions on disclosure under para-  
25 graph (2).

1                   “(II) PROVISION OF SAMPLES  
2                   AND INFORMATION TO CBP.—The  
3                   Secretary is authorized to establish a  
4                   process for those owners of copyrights  
5                   and owners of registered marks that  
6                   wish to provide to the United States  
7                   Customs and Border Protection Agen-  
8                   cy samples of, or information regard-  
9                   ing, their copyrighted merchandise or  
10                  merchandise that bears their reg-  
11                  istered marks (as the case may be), to  
12                  assist the Secretary in determining  
13                  whether merchandise presented for ex-  
14                  amination infringes the copyright or  
15                  bears or consists of a counterfeit  
16                  mark of the registered mark.

17                  “(b) MERCHANDISE IN VIOLATION OF  
18                  ANTICIRCUMVENTION MEASURES.—

19                         “(1) NOTIFICATION UPON SEIZURE.—

20                                 “(A) NOTIFICATION OF COPYRIGHT  
21                                 OWNER.—Upon the seizure of merchandise by  
22                                 the Secretary for a violation of subsection (a) or  
23                                 (b) of section 1201 of title 17, United States  
24                                 Code, the Secretary shall notify the owner of a  
25                                 copyright who is included on the list established

1 under paragraph (4) of the seizure of the mer-  
2 chandise that is capable of circumventing a  
3 technological measure of the copyright owner  
4 under either such subsection. The Secretary  
5 shall also provide to any such person additional  
6 information upon request, which shall be equiv-  
7 alent to information provided pursuant to sec-  
8 tion 602(b) of title 17, United States Code, and  
9 the regulations issued under that section.

10 “(B) NOTIFICATION OF TRADEMARK  
11 OWNER.—Upon the seizure of merchandise by  
12 the Secretary for a violation of subsection (a) or  
13 (b) of section 1201 of title 17, United States  
14 Code, the Secretary shall notify the owner of a  
15 registered mark—

16 “(i) on hardware that contains a tech-  
17 nological measure that the seized merchan-  
18 dise is capable of circumventing, or

19 “(ii) on hardware on which the use of  
20 the seized merchandise is capable of cir-  
21 cumventing a technological measure of a  
22 copyright owner,

23 in either case in a manner that would result in  
24 injury to the owner of a copyright under either  
25 such subsection, if the owner of the registered



1 mark is included on the list established under  
2 paragraph (4). The Secretary shall also provide  
3 to any such person additional information upon  
4 request, which shall be equivalent to informa-  
5 tion provided pursuant to section 602(b) of title  
6 17, United States Code, and the regulations  
7 issued under that section.

8 “(2) PRE-SEIZURE PROVISION OF SAMPLES.—

9 “(A) IN GENERAL.—In the case of mer-  
10 chandise that the Secretary reasonably suspects  
11 may be subject to seizure by the Secretary for  
12 a violation of subsection (a) or (b) of section  
13 1201 of title 17, United States Code, the Sec-  
14 retary is authorized to provide a sample of the  
15 merchandise to any person described in sub-  
16 paragraph (B) in the case of merchandise that  
17 is suspected of such a violation, when necessary  
18 in the view of the Secretary to assist the Sec-  
19 retary in determining whether such a violation  
20 has occurred.

21 “(B) RECIPIENTS OF SAMPLES.—Persons  
22 to whom provision of samples is authorized  
23 under subparagraph (A) are—

24 “(i) the owner of a copyright whose  
25 technological measure the merchandise is

1 capable of circumventing under subsection  
2 (a) or (b) of section 1201 of title 17,  
3 United States Code; and

4 “(ii) the owner of a registered mark—

5 “(I) on hardware that contains a  
6 technological measure that the seized  
7 merchandise is capable of circum-  
8 venting, or

9 “(II) on hardware on which the  
10 use of the seized merchandise is capa-  
11 ble of circumventing a technological  
12 measure of a copyright owner,

13 in either case in a manner that would re-  
14 sult in injury to the owner of a copyright  
15 under either such subsection.

16 “(C) NONDISCLOSURE.—

17 “(i) IN GENERAL.—Any owner of a  
18 copyright or a registered mark to whom a  
19 sample is provided under subparagraph  
20 (A) before the merchandise is seized may  
21 not disclose it to any other person or use  
22 it for a purpose other than the purpose de-  
23 scribed in subparagraph (A) for such pro-  
24 vision of samples.

1           “(ii) EXCEPTION.—Clause (i) does not  
2           apply in the case of a sample that is dis-  
3           closed or used in a civil action for infringe-  
4           ment of a copyright under title 17, United  
5           States Code, or infringement of a reg-  
6           istered mark under the Lanham Act.

7           “(iii) USE IN JUDICIAL PROCEEDINGS  
8           BARRED.—A sample provided under sub-  
9           paragraph (A), or information obtained  
10          from the provision of such a sample, may  
11          not be used by the owner of a copyright or  
12          registered mark in any judicial proceeding,  
13          other than a proceeding described in clause  
14          (ii).

15          “(D) BONDING REQUIREMENTS.—The Sec-  
16          retary may impose bonding requirements on the  
17          owner of the copyright or trademark as a condi-  
18          tion of the provision of samples under this  
19          paragraph.

20          “(3) POST-SEIZURE PROVISION OF SAMPLES.—

21                 “(A) IN GENERAL.—In the case of mer-  
22                 chandise subject to seizure by the Secretary for  
23                 a violation of subsection (a) or (b) of section  
24                 1201 of title 17, United States Code, the Sec-  
25                 retary is authorized to provide a sample of the

1 merchandise to any person described in sub-  
2 paragraph (B) if the merchandise has been  
3 seized for such a violation.

4 “(B) RECIPIENTS OF SAMPLES.—Persons  
5 to whom provision of samples is authorized  
6 under subparagraph (A) are—

7 “(i) the owner of a copyright whose  
8 technological measure the merchandise is  
9 capable of circumventing under subsection  
10 (a) or (b) of section 1201 of title 17,  
11 United States Code, and who is included  
12 on the list established under paragraph  
13 (4); and

14 “(ii) the owner of a registered mark—

15 “(I) on hardware that contains a  
16 technological measure that the seized  
17 merchandise is capable of circum-  
18 venting, or

19 “(II) on hardware on which the  
20 use of the seized merchandise is capa-  
21 ble of circumventing a technological  
22 measure of a copyright owner,

23 in either case in a manner that would re-  
24 sult in injury to the owner of a copyright  
25 under either such subsection, if the owner

1 of the registered mark is included on the  
2 list established under paragraph (4). The  
3 Secretary shall also provide to any such  
4 person additional information upon re-  
5 quest, which shall be equivalent to infor-  
6 mation provided pursuant to section  
7 602(b) of title 17, United States Code, and  
8 the regulations issued under that section.

9 “(C) BONDING REQUIREMENTS.—The Sec-  
10 retary may impose bonding requirements on the  
11 owner of the copyright or trademark as a condi-  
12 tion of the provision of samples under this  
13 paragraph.

14 “(4) ELIGIBLE OWNERS OF COPYRIGHTS AND  
15 REGISTERED MARKS.—An owner of a copyright or a  
16 registered mark is eligible to receive notification  
17 under paragraph (1) or samples under paragraph  
18 (3) if such owner is included on a list that the Sec-  
19 retary is authorized to maintain and periodically re-  
20 vise, through a process of notice and comment, for  
21 purposes of paragraphs (1) and (3) of this sub-  
22 section.

23 “(5) REGULATIONS.—Not later than the 90th  
24 day after the date of the enactment of this section,

1 the Secretary shall promulgate regulations estab-  
2 lishing procedures that implement this subsection.

3 “(c) NOTIFICATION OF PARTIES RESPONSIBLE FOR  
4 INITIATION OF SECTION 337 INVESTIGATIONS.—The Sec-  
5 retary is authorized to notify the party or parties respon-  
6 sible for initiating an investigation under section 337 of  
7 this Act when merchandise is excluded under subsection  
8 (d) of that section, or merchandise is seized under sub-  
9 section (i) of that section, pursuant to that investigation.

10 “(d) DEFINITIONS.—In this section:

11 “(1) The term ‘counterfeit mark’ has the mean-  
12 ing given that term in section 2320(e) of title 18,  
13 United States Code.

14 “(2) The term ‘Lanham Act’ means the Act en-  
15 titled ‘An Act to provide for the registration and  
16 protection of trademarks used in commerce, to carry  
17 out the provisions of certain international conven-  
18 tions, and for other purposes’, approved July 5,  
19 1946 (15 U.S.C. 1051 et seq.).

20 “(3) The term ‘mark’ has the meaning given  
21 that term in section 45 of the Lanham Act (15  
22 U.S.C. 1127).

23 “(4) The term ‘registered mark’ has the mean-  
24 ing given that term in section 45 of the Lanham Act  
25 (15 U.S.C. 1127).

1           “(5) The term ‘Secretary’ means the Secretary  
2 of Homeland Security, acting through the Commis-  
3 sioner of U.S. Customs and Border Protection.

4           “(6) The term ‘work’ means a work within the  
5 meaning of title 17, United States Code.

6           “(7) The term ‘without redaction’ means with-  
7 out modification, deletion or omission.”.

8 **TITLE III—PREVENTION OF EVA-**  
9 **SION OF ANTIDUMPING AND**  
10 **COUNTERVAILING DUTY OR-**  
11 **DERS**

12 **SEC. 301. SHORT TITLE.**

13           This title may be cited as the “Preventing Recurring  
14 Trade Evasion and Circumvention Act” or “PROTECT  
15 Act”.

16 **SEC. 302. DEFINITIONS.**

17           In this title:

18           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
19 TEES.—The term “appropriate congressional com-  
20 mittees” means—

21           (A) the Committee on Finance and the  
22           Committee on Appropriations of the Senate;  
23           and

1 (B) the Committee on Ways and Means  
2 and the Committee on Appropriations of the  
3 House of Representatives.

4 (2) COMMISSIONER.—The term “Commis-  
5 sioner” means the Commissioner of U.S. Customs  
6 and Border Protection.

7 (3) COVERED MERCHANDISE.—The term “cov-  
8 ered merchandise” means merchandise that is sub-  
9 ject to—

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

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

14 (4) ELIGIBLE SMALL BUSINESS.—

15 (A) IN GENERAL.—The term “eligible  
16 small business” means any business concern  
17 which, in the Commissioner’s judgment, due to  
18 its small size, has neither adequate internal re-  
19 sources nor financial ability to obtain qualified  
20 outside assistance in preparing and submitting  
21 for consideration allegations of evasion.

22 (B) NON-REVIEWABILITY.—Any agency  
23 decision regarding whether a business concern  
24 is an eligible small business for purposes of sec-



1           tion 311(b)(3) is not reviewable by any other  
2           agency or by any court.

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

7           (6) EVADE; EVASION.—The terms “evade” and  
8           “evasion” refer to entering covered merchandise into  
9           the customs territory of the United States by means  
10          of any document or electronically transmitted data  
11          or information, written or oral statement, or act that  
12          is material and false, or any omission that is mate-  
13          rial, and that results in any cash deposit or other se-  
14          curity or any amount of applicable antidumping or  
15          countervailing duties being reduced or not being ap-  
16          plied with respect to the merchandise.

17          (7) SECRETARY.—The term “Secretary” means  
18          the Secretary of the Treasury.

19          (8) TRADE REMEDY LAWS.—The term “trade  
20          remedy laws” means title VII of the Tariff Act of  
21          1930.

22 **SEC. 303. APPLICATION TO CANADA AND MEXICO.**

23          Pursuant to article 1902 of the North American Free  
24          Trade Agreement and section 408 of the North American  
25          Free Trade Agreement Implementation Act (19 U.S.C.

1 3438), this title and the amendments made by this title  
2 shall apply with respect to goods from Canada and Mexico.

3 **Subtitle A—Actions Relating to En-**  
4 **forcement of Trade Remedy**  
5 **Laws**

6 **SEC. 311. TRADE REMEDY LAW ENFORCEMENT DIVISION.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—The Secretary of Homeland  
9 Security shall establish and maintain within the Of-  
10 fice of International Trade of U.S. Customs and  
11 Border Protection, established under section 2(d) of  
12 the Act of March 3, 1927 (44 Stat. 1381, chapter  
13 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-  
14 forcement Division.

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

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

20 (B) a National Targeting and Analysis  
21 Group dedicated to preventing and countering  
22 evasion.

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

1 (A) to the development and administration  
2 of policies to prevent and counter evasion;

3 (B) to direct enforcement and compliance  
4 assessment activities concerning evasion;

5 (C) to the development and conduct of  
6 commercial risk assessment targeting with re-  
7 spect to cargo destined for the United States in  
8 accordance with subsection (c);

9 (D) to issuing Trade Alerts described in  
10 subsection (d); and

11 (E) to the development of policies for the  
12 application of single entry and continuous  
13 bonds for entries of covered merchandise to suf-  
14 ficiently protect the collection of antidumping  
15 and countervailing duties commensurate with  
16 the level of risk of noncollection.

17 (b) DUTIES OF DIRECTOR.—The duties of the Direc-  
18 tor of the Trade Remedy Law Enforcement Division shall  
19 include—

20 (1) directing the trade enforcement and compli-  
21 ance assessment activities of the U.S. Customs and  
22 Border Protection Agency that concern evasion;

23 (2) facilitating, promoting, and coordinating co-  
24 operation and the exchange of information between  
25 the U.S. Customs and Border Protection Agency,

1 U.S. Immigration and Customs Enforcement, and  
2 other relevant agencies regarding evasion;

3 (3) notifying on a timely basis the admin-  
4 istering authority (as defined in section 771(1) of  
5 the Tariff Act of 1930 (19 U.S.C. 1677(1))) and the  
6 Commission (as defined in section 771(2) of the  
7 Tariff Act of 1930 (19 U.S.C. 1677(2))) of any  
8 finding, determination, civil action, or criminal ac-  
9 tion taken by the U.S. Customs and Border Protec-  
10 tion Agency or other Federal agency regarding eva-  
11 sion;

12 (4) serving as the primary liaison between the  
13 U.S. Customs and Border Protection Agency and  
14 the public regarding United States Government ac-  
15 tivities concerning evasion, including—

16 (A) receive and transmit to the appropriate  
17 U.S. Customs and Border Protection Agency  
18 office allegations from parties of evasion;

19 (B) upon request by the party or parties  
20 that submitted an allegation of evasion, provide  
21 information to such party or parties on the sta-  
22 tus of the U.S. Customs and Border Protection  
23 Agency's consideration of the allegation and de-  
24 cision to pursue or not pursue any investiga-  
25 tions or other actions, such as changes in poli-

1           cies, procedures, or resource allocation as a re-  
2           sult of the allegation;

3           (C) as needed, request from the party or  
4           parties that submitted an allegation of evasion  
5           any additional information that may be relevant  
6           for the U.S. Customs and Border Protection  
7           Agency determining whether to initiate an in-  
8           vestigation or take any other action regarding  
9           the allegation;

10          (D) notify on a timely basis the party or  
11          parties that submitted such an allegation of the  
12          results of any civil or criminal actions taken by  
13          the U.S. Customs and Border Protection Agen-  
14          cy or other Federal agency regarding evasion as  
15          a direct or indirect result of the allegation;

16          (E) upon request, provide technical assist-  
17          ance and advice to eligible small businesses to  
18          enable such businesses to prepare and submit  
19          allegations of evasion, except that the Director  
20          may deny assistance if the Director concludes  
21          that the allegation, if submitted, would not lead  
22          to the initiation of an investigation or any other  
23          action to address the allegation;

24          (F) in cooperation with the public, the  
25          Commercial Customs Operations Advisory Com-

1           mittee, the Trade Support Network, and any  
2           other relevant parties and organizations, de-  
3           velop guidelines on the types and nature of in-  
4           formation that may be provided in allegations  
5           of evasion; and

6                   (G) regularly consult with the public, the  
7           Commercial Customs Operations Advisory Com-  
8           mittee, the Trade Support Network, and any  
9           other relevant parties and organizations regard-  
10          ing the development and implementation of reg-  
11          ulations, interpretations, and policies related to  
12          countering evasion.

13          (c) PREVENTING AND COUNTERING EVASION OF THE  
14   TRADE REMEDY LAWS.—In carrying out its duties with  
15   respect to preventing and countering evasion, the National  
16   Targeting and Analysis Group dedicated to preventing and  
17   countering evasion shall—

18                   (1) establish targeted risk assessment meth-  
19                   odologies and standards—

20                           (A) for evaluating the risk that cargo des-  
21                           tined for the United States may constitute  
22                           evading covered merchandise; and

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



1           (1) shall exercise all existing authorities to col-  
2 lect information needed to make the determination;  
3 and

4           (2) may collect such additional information as  
5 is necessary to make the determination through such  
6 methods as the Commissioner considers appropriate,  
7 including by issuing questionnaires with respect to  
8 the entry or entries at issue to—

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

11           (B) a person who is alleged to have en-  
12 tered the covered merchandise into the customs  
13 territory of the United States through evasion;  
14 or

15           (C) any other person who is determined to  
16 have information relevant to the allegation of  
17 entry of covered merchandise into the customs  
18 territory of the United States through evasion.

19 (b) ADVERSE INFERENCE.—

20           (1) IN GENERAL.—If the Secretary finds that a  
21 person who filed an allegation, a person alleged to  
22 have entered covered merchandise into the customs  
23 territory of the United States through evasion, or a  
24 foreign producer or exporter of covered merchandise  
25 that is alleged to have entered into the customs ter-



1 ritory of the United States through evasion, has  
2 failed to cooperate by not acting to the best of the  
3 person's ability to comply with a request for infor-  
4 mation, the Secretary may, in making a determina-  
5 tion whether an entry or entries of covered merchan-  
6 dise may constitute merchandise that is entered into  
7 the customs territory of the United States through  
8 evasion, use an inference that is adverse to the inter-  
9 ests of that person in selecting from among the facts  
10 otherwise available to determine whether evasion has  
11 occurred.

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

15 (A) the allegation of evasion of the trade  
16 remedy laws, if any, submitted to the U.S. Cus-  
17 toms and Border Protection Agency;

18 (B) a determination by the Commissioner  
19 in another investigation, proceeding, or other  
20 action regarding evasion of the unfair trade  
21 laws; or

22 (C) any other available information.

23 **SEC. 313. ACCESS TO INFORMATION.**

24 (a) IN GENERAL.—Section 777(b)(1)(A)(ii) of the  
25 Trade Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is

1 amended by inserting “negligence, gross negligence, or”  
2 after “regarding”.

3 (b) **ADDITIONAL INFORMATION.**—Notwithstanding  
4 any other provision of law, the Secretary is authorized to  
5 provide to the Secretary of Commerce or the U.S. Inter-  
6 national Trade Commission any information that is nec-  
7 essary to enable the Secretary of Commerce or the U.S.  
8 International Trade Commission to assist the Secretary  
9 to identify, through risk assessment targeting or other-  
10 wise, covered merchandise that is entered into the customs  
11 territory of the United States through evasion.

12 **SEC. 314. COOPERATION WITH FOREIGN COUNTRIES ON**  
13 **PREVENTING EVASION OF TRADE REMEDY**  
14 **LAWS.**

15 (a) **BILATERAL AGREEMENTS.**—

16 (1) **IN GENERAL.**—The Secretary shall seek to  
17 negotiate and enter into bilateral agreements with  
18 the customs authorities or other appropriate authori-  
19 ties of foreign countries for purposes of cooperation  
20 on preventing evasion of the trade remedy laws of  
21 the United States and the trade remedy laws of the  
22 other country.

23 (2) **PROVISIONS AND AUTHORITIES.**—The Sec-  
24 retary shall seek to include in each such bilateral  
25 agreement the following provisions and authorities:

1           (A) On the request of the importing party,  
2           the exporting party shall provide, consistent  
3           with its laws, regulations, and procedures, pro-  
4           duction, trade, and transit documents and other  
5           information necessary to determine whether an  
6           entry or entries exported from the exporting  
7           party are subject to the importing party's trade  
8           remedy laws.

9           (B) On the written request of the import-  
10          ing party, the exporting party shall conduct a  
11          verification for purposes of enabling the import-  
12          ing party to make a determination described in  
13          subparagraph (A).

14          (C) The exporting party may allow the im-  
15          porting party to participate in a verification de-  
16          scribed in subparagraph (B), including through  
17          a site visit.

18          (D) If the exporting party does not allow  
19          participation of the importing party in a  
20          verification described in subparagraph (B), the  
21          importing party may take this fact into consid-  
22          eration in its trade enforcement and compliance  
23          assessment activities regarding the compliance  
24          of the exporting countries' exports with the im-  
25          porting countries' trade remedy laws.

1 (b) CONSIDERATION.—The Commissioner is author-  
2 ized to take into consideration whether a country is a sig-  
3 natory to a bilateral agreement described in subsection (a)  
4 and the extent to which the country is cooperating under  
5 the bilateral agreement for purposes of trade enforcement  
6 and compliance assessment activities of U.S. Customs and  
7 Border Protection that concern evasion by such country’s  
8 exports.

9 (c) REPORT.—Not later than December 31 of each  
10 year beginning after the date of the enactment of this Act,  
11 the Secretary shall submit to the appropriate congres-  
12 sional committees a report summarizing—

13 (1) the status of any ongoing negotiations of bi-  
14 lateral agreements described in subsection (a), in-  
15 cluding the identities of the countries involved in  
16 such negotiations;

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

19 (3) bilateral cooperation and other activities  
20 conducted pursuant to or enabled by any completed  
21 bilateral agreements described in subsection (a).

22 **SEC. 315. TRADE NEGOTIATING OBJECTIVES.**

23 The principal negotiating objectives of the United  
24 States shall include obtaining the objectives of the bilat-  
25 eral agreements described under section 314(a) for any

1 trade agreements under negotiation as of the date of the  
2 enactment of this Act or future trade agreement negotia-  
3 tions.

## 4 **Subtitle B—Other Matters**

### 5 **SEC. 321. ALLOCATION AND TRAINING OF PERSONNEL.**

6 The Commissioner shall, to the maximum extent pos-  
7 sible, ensure that the U.S. Customs and Border Protection  
8 Agency—

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

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

22 (3) provides adequate training to relevant per-  
23 sonnel to increase expertise and effectiveness in the  
24 prevention and investigation of entries of covered

1 merchandise into the customs territory of the United  
2 States through evasion.

3 **SEC. 322. ANNUAL REPORT ON PREVENTION OF EVASION**  
4 **OF ANTIDUMPING AND COUNTERVAILING**  
5 **DUTY ORDERS.**

6 (a) IN GENERAL.—Not later than February 28 of  
7 each year, beginning in 2013, the Commissioner, in con-  
8 sultation with the Secretary of Commerce and the Assist-  
9 ant Secretary for U.S. Immigration and Customs Enforce-  
10 ment, shall submit to the appropriate congressional com-  
11 mittees a report on the efforts being taken to prevent and  
12 investigate evasion.

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

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

17 (A) a summary of the efforts of the U.S.  
18 Customs and Border Protection Agency to pre-  
19 vent and investigate evasion;

20 (B) the number of allegations of evasion  
21 received and the number of allegations of eva-  
22 sion resulting in investigations by the U.S. Cus-  
23 toms and Border Protection Agency or any  
24 other agency;

1 (C) a summary of the completed investiga-  
2 tions of evasion, including the number and na-  
3 ture of the investigations initiated, conducted,  
4 or completed, as well as their resolution;

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

8 (E) the amounts of antidumping and coun-  
9 tervailing duties collected as a result of any in-  
10 vestigations or other actions by the U.S. Cus-  
11 toms and Border Protection Agency or any  
12 other agency;

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

20 (G) a description of training conducted to  
21 increase expertise and effectiveness in the pre-  
22 vention and investigation of evasion; and

23 (2) a description of the U.S. Customs and Bor-  
24 der Protection Agency processes and procedures to  
25 prevent and investigate evasion, including—

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

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

8 (C) identification of any changes since the  
9 last report that have materially improved or re-  
10 duced the effectiveness of the U.S. Customs  
11 and Border Protection Agency to prevent and  
12 investigate evasion;

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

20 (E) the processes and procedures for in-  
21 creased cooperation and information sharing  
22 with the Department of Commerce, U.S. Immi-  
23 gration and Customs Enforcement, and any  
24 other relevant Federal agencies to prevent and  
25 investigate evasion; and



1 (F) identification of any recommended pol-  
2 icy changes of other Federal agencies or legisla-  
3 tive changes to improve the effectiveness of the  
4 U.S. Customs and Border Protection Agency to  
5 prevent and investigate evasion.

6 **SEC. 323. ADDRESSING CIRCUMVENTION BY NEW SHIP-**  
7 **PERS.**

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

10 (1) by striking clause (iii);

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

12 and

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

15 “(iv) Any weighted average dumping  
16 margin or individual countervailing duty  
17 rate determined for an exporter or pro-  
18 ducer in a review conducted under clause  
19 (i) shall be based solely on the bona fide  
20 United States sales of an exporter or pro-  
21 ducer, as the case may be, made during  
22 the period covered by the review. In deter-  
23 mining whether the United States sales of  
24 an exporter or producer made during the  
25 period covered by the review were bona

1           fide, the administering authority shall con-  
2           sider, depending on the circumstances sur-  
3           rounding such sales—

4                   “(I) the prices of such sales;

5                   “(II) whether such sales were  
6           made in commercial quantities;

7                   “(III) the timing of such sales;

8                   “(IV) the expenses arising from  
9           such sales;

10                  “(V) whether the subject mer-  
11           chandise involved in such sales were  
12           resold in the United States at a prof-  
13           it;

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

16                  “(VII) any other factor the ad-  
17           ministering authority determines to be  
18           relevant as to whether such sales are,  
19           or are not, likely to be typical of those  
20           the exporter or producer will make  
21           after completion of the review.”.

1           **TITLE IV—MISCELLANEOUS**  
2                           **PROVISIONS**

3   **SEC. 401. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

11                           “(G) has been convicted of committing or  
12 conspiring to commit an act of terrorism de-  
13 scribed in section 2332b of title 18, United  
14 States Code.”.

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

17                   (1) in subsection (g)(2)(B), by striking “Sec-  
18 retary’s notice” and inserting “notice under sub-  
19 paragraph (A)”; and

20                   (2) by striking “Customs Service” each place it  
21 appears and inserting “U.S. Customs and Border  
22 Protection Agency”.

1 **SEC. 402. DE MINIMIS VALUE AND ENTRY UNDER REGULA-**  
2 **TIONS.**

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

6 (b) ENTRY UNDER REGULATIONS.—Section 498 of  
7 the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

8 (1) in subsection (a), by striking paragraph (1)  
9 and inserting the following:

10 “(1) Merchandise, when different commercial  
11 facilitation and risk considerations that may vary for  
12 different classes or kinds of merchandise or different  
13 classes of transactions may dictate;”;

14 (2) by redesignating subsection (b) as sub-  
15 section (c); and

16 (3) by inserting after subsection (a) the fol-  
17 lowing:

18 “(b) ENTRY OF MERCHANDISE VALUED AT \$2,500  
19 OR LESS.—The Secretary of the Treasury shall prescribe  
20 rules and regulations for the declaration and entry of mer-  
21 chandise if the aggregate value of the shipment of mer-  
22 chandise does not exceed \$2,500.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section apply to articles entered, or withdrawn from  
25 warehouse for consumption, on or after the 90th day after  
26 the date of the enactment of this Act.

1 **SEC. 403. COLLECTION AND REMITTANCE OF CERTAIN CUS-**  
2 **TOMS USER FEES.**

3 (a) IN GENERAL.—Section 13031(d) of the Consoli-  
4 dated Omnibus Budget Reconciliation Act of 1985 (19  
5 U.S.C. 58e(d)) is amended—

6 (1) in the subsection heading, by inserting  
7 “AND REMITTANCE” after “COLLECTION”;

8 (2) in paragraph (3)—

9 (A) by inserting “required to be collected  
10 under such paragraph” after “shall remit those  
11 fees”; and

12 (B) by striking “31 days after the close of  
13 the calendar quarter in which the fees are col-  
14 lected” and inserting “30 days after the end of  
15 the month in which the fees are required to be  
16 collected”; and

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

18 “(5) The refund of any fee collected under sub-  
19 section (a)(5) shall not be payable from the Customs  
20 User Fee Account.

21 “(6)(A) A person who collects fees under para-  
22 graph (1) or (2) and does not remit those fees to the  
23 Secretary of the Treasury as required by paragraph  
24 (3) shall be subject to a penalty in accordance with  
25 the requirements of this paragraph.

1           “(B) The amount of such penalty shall be equal  
2           to 2 times the amount of the fee that was required  
3           to be remitted to the Secretary of the Treasury. The  
4           Secretary of the Treasury may establish and impose  
5           additional penalties through rulemaking for failure  
6           to comply with any provision of this subsection.

7           “(C) Any penalty collected under this para-  
8           graph shall be used to directly reimburse each ap-  
9           propriation for the amount paid out of that appro-  
10          priation for the costs described in subsection  
11          (f)(3)(A).”.

12          (b) **EFFECTIVE DATE.**—The amendments made by  
13          subsection (a) take effect on the date of enactment of this  
14          Act and apply with respect to fees that are required to  
15          be collected and remitted to the Secretary of the Treasury  
16          under section 13031(d) of the Consolidated Omnibus  
17          Budget Reconciliation Act of 1985, as amended by sub-  
18          section (a), on or after such date of enactment.

19          **SEC. 404. DRAWBACK AND REFUNDS.**

20          (a) **ARTICLES MADE FROM IMPORTED MERCHAN-**  
21          **DISE.**—Section 313(a) of the Tariff Act of 1930 (19  
22          U.S.C. 1313(a)) is amended—

23                  (1) by striking “under customs supervision”;  
24          and

1           (2) by inserting “as calculated under subsection  
2           (r)(4)(A),” after “less 1 per centum of such du-  
3           ties,”.

4           (b) SUBSTITUTION FOR DRAWBACK PURPOSES.—  
5           Section 313(b) of the Tariff Act of 1930 (19 U.S.C.  
6           1313(b)) is amended—

7           (1) by striking “If imported” and inserting the  
8           following:

9           “(1) IN GENERAL.—If imported”;

10           (2) by striking “and any other merchandise  
11           (whether imported or domestic) of the same kind  
12           and quality” and inserting “and substitute merchan-  
13           dise”;

14           (3) by striking “three years” and inserting “5  
15           years”;

16           (4) by striking “the receipt of such imported  
17           merchandise by the manufacturer or producer of  
18           such articles” and inserting “the date of importation  
19           of such imported merchandise by the importer”;

20           (5) by striking “under customs supervision”  
21           each place it appears;

22           (6) by inserting after “merchandise used there-  
23           in been imported,” the following: “as calculated  
24           under subsection (r)(4)(A),”;

1 (7) by striking the period at the end and insert-  
2 ing “, as calculated under subsection (r)(4)(A).”;  
3 and

4 (8) by adding at the end the following:

5 “(2) REQUIREMENTS RELATING TO TRANSFER  
6 OF MERCHANDISE.—

7 “(A) MANUFACTURERS AND PRO-  
8 DUCERS.—Drawback may be allowed under  
9 paragraph (1) in the amount referred to under  
10 paragraph (1) only if the manufacturer or pro-  
11 ducer of articles has received the imported,  
12 duty-paid merchandise or substitute merchan-  
13 dise, directly or indirectly, of imported duty-  
14 paid merchandise or substitute merchandise.

15 “(B) EXPORTERS AND DESTROYERS.—  
16 Drawback may be allowed under paragraph (1)  
17 in the amount referred to under paragraph (1)  
18 only if the exporter or destroyer of articles has  
19 received the manufactured or produced article  
20 or substitute article, directly or indirectly, of a  
21 substitute article.

22 “(C) EVIDENCE OF TRANSFER.—Transfers  
23 of merchandise under subparagraph (A) and  
24 transfers of articles under subparagraph (B)  
25 may be evidenced by business records kept in



1 the normal course of business and no additional  
2 certificates of transfer or manufacture shall be  
3 required.”.

4 (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR  
5 SPECIFICATIONS.—Section 313(c) of the Tariff Act of  
6 1930 (19 U.S.C. 1313(c)) is amended—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph  
9 (A), by striking “under the supervision of the  
10 Customs Service”;

11 (B) in subparagraph (D)—

12 (i) by striking “3” and inserting “5”;

13 and

14 (ii) by striking “under the supervision  
15 of the Customs Service”; and

16 (C) in the text immediately following sub-  
17 paragraph (D), by inserting “as calculated  
18 under subsection (r)(4)(A),” after “merchan-  
19 dise,”; and

20 (2) in paragraph (2)—

21 (A) by striking “under the supervision of  
22 the Customs Service”;

23 (B) by striking the last sentence and in-  
24 serting the following: “Transfers of merchan-  
25 dise may be evidenced by business records kept

1           in the normal course of business and no addi-  
2           tional certificates of transfer shall be re-  
3           quired.”.

4           (d) PROOF OF EXPORTATION.—Section 313(i) of the  
5 Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read  
6 as follows:

7           “(i) PROOF OF EXPORTATION.—A person claiming  
8 drawback under this section shall, as proof of exportation,  
9 maintain the record of exportation entered in the auto-  
10 mated export system of the United States Government or,  
11 if the exporter is unable to use that system, records kept  
12 in the normal course of business similar to the information  
13 contained in such record of exportation.”.

14           (e) UNUSED MERCHANDISE DRAWBACK.—Section  
15 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is  
16 amended—

17           (1) in paragraph (1)(A)—

18                   (A) by striking “3-year” and inserting “5-  
19                   year”; and

20                   (B) by inserting “and before filing the  
21                   drawback claim” after “the date of importa-  
22                   tion”; and

23           (2) in paragraph (2)—

24                   (A) in subparagraph (B)—

1 (i) by striking “3-year” and inserting  
2 “5-year”;

3 (ii) by inserting “and before filing the  
4 drawback claim” after “the imported mer-  
5 chandise”; and

6 (iii) by striking “under customs su-  
7 pervision”;

8 (B) in subparagraph (C)(ii)(II)—

9 (i) by inserting “, directly or indi-  
10 rectly,” after “received”; and

11 (ii) by inserting “, tax, or fee” after  
12 “duty”; and

13 (C) in the text immediately following sub-  
14 paragraph (C)—

15 (i) by inserting “, as calculated under  
16 subsection (r)(4),” after “under this sub-  
17 section”; and

18 (ii) by adding at the end the fol-  
19 lowing: “Merchandise shall be considered  
20 to be received directly or indirectly from a  
21 person who imported and paid any duty,  
22 tax, or fee due on the imported merchan-  
23 dise if the recipient received any imported  
24 merchandise, any other merchandise  
25 (whether imported or domestic), or any

1 combination of imported merchandise and  
2 such other merchandise, from the importer  
3 through a transfer directly to the recipient,  
4 or a transfer from the importer through  
5 one or more intermediate transfers involv-  
6 ing one or more parties of any combination  
7 of imported merchandise or such other  
8 merchandise. Transfers of merchandise  
9 may be evidenced by business records kept  
10 in the normal course of business and no  
11 additional certificates of transfer shall be  
12 required.”.

13 (f) CERTIFICATE OF DELIVERY.—Section 313 of the  
14 Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-  
15 ing subsection (k).

16 (g) REGULATIONS.—Section 313(l) of the Tariff Act  
17 of 1930 (19 U.S.C. 1313(l)) is amended by striking “and  
18 the designation of the person to whom any refund or pay-  
19 ment of drawback shall be made” and inserting “and the  
20 authority to require that all drawback entries be filed elec-  
21 tronically”.

22 (h) SUBSTITUTION OF FINISHED PETROLEUM DE-  
23 RIVATIVES.—Section 313(p) of the Tariff Act of 1930 (19  
24 U.S.C. 1313(p)) is amended—

1           (1) by striking “Harmonized Tariff Schedule of  
2           the United States” each place it appears and insert-  
3           ing “HTS”; and

4           (2) the text immediately following paragraph  
5           (3)(A)(ii), by striking “Commissioner of Customs”  
6           and inserting “Commissioner of U.S. Customs and  
7           Border Protection”.

8           (i) PACKAGING MATERIAL.—Section 313(q)(3) of the  
9           Tariff Act of 1930 (19 U.S.C. 1313(q)(3)) is amended by  
10          striking “they contain” and inserting “it contains”.

11          (j) FILING AND CALCULATION OF DRAWBACK  
12          CLAIMS.—Section 313(r) of the Tariff Act of 1930 (19  
13          U.S.C. 1313(r)) is amended—

14               (1) in the heading, by inserting “AND CAL-  
15               CULATION OF” after “FILING”;

16               (2) in paragraph (1)—

17                       (A) by striking the first sentence and in-  
18                       serting the following: “A drawback entry shall  
19                       be filed or applied for, as applicable, not later  
20                       than 5 years after the date on which merchan-  
21                       dise on which drawback is claimed was im-  
22                       ported. If merchandise summarized on an entry  
23                       summary line item with respect to which draw-  
24                       back is claimed was imported on more than one  
25                       date, the earliest date of importation of the

1 merchandise contained on that entry summary  
2 line item shall be used for purposes of this  
3 paragraph.”;

4 (B) in the second sentence, by striking “3-  
5 year” and inserting “5-year”; and

6 (C) in the third sentence, by striking “the  
7 Customs Service” and inserting “U.S. Customs  
8 and Border Protection”;

9 (3) in paragraph (3)(A)—

10 (A) in the matter preceding clause (i), by  
11 striking “The Customs Service” and inserting  
12 “U.S. Customs and Border Protection”; and

13 (B) in clauses (i) and (ii), by striking “the  
14 Customs Service” each place it appears and in-  
15 serting “U.S. Customs and Border Protection”;  
16 and

17 (4) by adding at the end the following:

18 “(4) The amount used for purposes of determining  
19 a drawback entry for refund filed under subsection (a),  
20 (b), or (c) shall equal the amount determined by multi-  
21 plying—

22 “(A) the amount determined by dividing—

23 “(i) the total amount of duties, taxes, and  
24 fees on the entry summary line item under  
25 which imported merchandise is reported; by

1                   “(ii) the number of units of imported mer-  
2                   chandise; and

3                   “(B) the number of units of imported merchan-  
4                   dise claimed for drawback.”.

5           (k) DRAWBACKS FOR RECOVERED MATERIALS.—  
6 Section 313(x) of the Tariff Act of 1930 (19 U.S.C.  
7 1313(x)) is amended by striking “and (c)” and inserting  
8 “(c), and (j)”.

9           (l) DEFINITIONS.—Section 313 of the Tariff Act of  
10 1930 (19 U.S.C. 1313) is amended by adding at the end  
11 the following:

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

13                   “(1) DIRECTLY.—The term ‘directly’ means a  
14                   transfer of merchandise or an article from 1 person  
15                   to another person without any intermediate transfer.

16                   “(2) HTS.—The term ‘HTS’ means the Har-  
17                   monized Tariff Schedule of the United States.

18                   “(3) INDIRECTLY.—The term ‘indirectly’ means  
19                   a transfer of merchandise or an article from 1 per-  
20                   son to another person with 1 or more intermediate  
21                   transfers.

22                   “(4) SCHEDULE B.—The term ‘Schedule B’  
23                   means the Department of Commerce Schedule B,  
24                   Statistical Classification of Domestic and Foreign  
25                   Commodities Exported from the United States.

1           “(5) SUBSTITUTE MERCHANDISE; SUBSTITUTE  
2     ARTICLE.—The terms ‘substitute merchandise’ and  
3     ‘substitute article’ mean—

4           “(A) a good that is classifiable within the  
5     same 8-digit HTS subheading number as an  
6     other good (the Schedule B number may be  
7     used to demonstrate this fact) whether im-  
8     ported or domestic; or

9           “(B) a good demonstrated to have been  
10    classifiable within the same 8-digit HTS sub-  
11    heading number as another good at some point  
12    during the 5-year period beginning on the date  
13    of importation of the designated imported mer-  
14    chandise (the Schedule B number may be used  
15    to demonstrate this fact) whether imported or  
16    domestic.”.

17    (m) EFFECTIVE DATE.—

18           (1) IN GENERAL.—The amendments made by  
19    this section shall—

20           (A) take effect on the date of the enact-  
21    ment of this Act; and

22           (B) except as provided in paragraph (2),  
23    apply to drawback claims filed with respect to  
24    merchandise that enters the United States on  
25    or after such date of enactment.



1           (2) TRANSITION RULE.—During the 2-year pe-  
2           riod beginning on the date described in paragraph  
3           (1)(A), a person may elect to file a claim for draw-  
4           back under—

5                     (A) section 313 of the Tariff Act of 1930,  
6                     as amended by this section; or

7                     (B) section 313 of the Tariff Act of 1930,  
8                     as in effect on the day before the date described  
9                     in paragraph (1)(A).

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

16                    (1) a description of the implementation of sec-  
17                    tion 313 of the Tariff Act of 1930 (19 U.S.C.  
18                    1313), as amended by this section;

19                    (2) an evaluation of the modernization of draw-  
20                    back and refunds under subsection (b) of section  
21                    313 of such Act (relating to substitution for draw-  
22                    back purposes), as amended by this section;

23                    (3) an evaluation of extending the moderniza-  
24                    tion of drawback and refunds to subsection (j) of

1 section 313 of such Act (relating to unused mer-  
2 chandise drawback), as amended by this section; and

3 (4) recommendations for the processing of  
4 drawback claims under the Automated Commercial  
5 Environment computer system authorized under sec-  
6 tion 13031(f)(5) of the Consolidated Omnibus Budg-  
7 et and Reconciliation Act of 1985 (19 U.S.C.  
8 58c(f)(5)).

9 **SEC. 405. AMENDMENTS TO CHAPTER 98 OF THE HAR-**  
10 **MONIZED TARIFF SCHEDULE OF THE UNITED**  
11 **STATES.**

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

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

18 “(f)(i) For purposes of subheadings 9802.00.40  
19 and 9802.00.50, fungible goods exported from the  
20 United States for the purposes described in such  
21 subheadings—

22 “(A) may be commingled; and

23 “(B) the origin, value, and classification of  
24 such goods may be accounted for using an in-  
25 ventory management method.

1           “(ii) If a person chooses to use an inventory  
2 management method under this paragraph with re-  
3 spect to fungible goods, the person shall use the  
4 same inventory management method for any other  
5 goods with respect to which the person claims  
6 fungibility under this paragraph.

7           “(iii) For the purposes of this paragraph—

8           “(A) the term ‘fungible good’ means any  
9 good that is commercially interchangeable with  
10 another good and that has properties that are  
11 essentially identical to the properties of another  
12 good; and

13           “(B) the term ‘inventory management  
14 method’ means any method for managing inven-  
15 tory that is based on generally accepted ac-  
16 counting principles.”.

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

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

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

7 (2) EFFECTIVE DATE.—The amendment made  
 8 by paragraph (1) applies to goods entered, or with-  
 9 drawn from warehouse for consumption, on or after  
 10 the 15th day after the date of the enactment of this  
 11 Act.

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

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

|   |            |  |      |    |
|---|------------|--|------|----|
| “ | 9801.00.11 | United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property ..... | Free | ”. |
|---|------------|--|------|----|

19 (2) EFFECTIVE DATE.—The amendment made  
 20 by paragraph (1) applies to goods entered, or with-

1 drawn from warehouse for consumption, on or after  
2 the 15th day after the date of the enactment of this  
3 Act.

## 4 **TITLE V—OTHER TRADE** 5 **AGENCIES**

### 6 **SEC. 501. UNITED STATES INTERNATIONAL TRADE COMMIS-** 7 **SION.**

8 (a) FISCAL YEAR 2013.—There are authorized to be  
9 appropriated for the salaries and expenses of the United  
10 States International Trade Commission not to exceed  
11 \$82,800,000 for fiscal year 2013.

12 (b) FISCAL YEARS 2014 AND 2015.—Section  
13 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C.  
14 1330(e)(2)(A)) is amended by striking clauses (i) and (ii)  
15 and inserting the following:

16 “(i) \$86,800,000 for fiscal year 2014.

17 “(ii) \$88,900,000 for fiscal year  
18 2015.”.

### 19 **SEC. 502. OFFICE OF THE UNITED STATES TRADE REP-** 20 **RESENTATIVE.**

21 (a) FISCAL YEAR 2013.—There are authorized to be  
22 appropriated for the salaries and expenses of the Office  
23 of the United States Trade Representative not to exceed  
24 \$51,300,000 for fiscal year 2013.

1 (b) ANNUAL REPORT ON TRADE AGREEMENTS PRO-  
2 GRAM AND NATIONAL TRADE POLICY AGENDA.—Section  
3 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is  
4 amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (A), by striking  
7 “and” at the end;

8 (B) in subparagraph (B), by striking the  
9 period at the end and inserting a semicolon;  
10 and

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

12 “(C) the operation of all United States  
13 Trade Representative-led interagency programs  
14 during the preceding year and for the year in  
15 which the report is submitted.”; and

16 (2) by adding at the end the following:

17 “(4) The report shall include, with respect to  
18 the matters referred to in paragraph (1)(C), infor-  
19 mation regarding—

20 “(A) the objectives and priorities of all  
21 United States Trade Representative-led inter-  
22 agency programs for the year, and the reasons  
23 therefor;

24 “(B) the actions proposed, or anticipated,  
25 to be undertaken during the year to achieve

1 such objectives and priorities, including actions  
2 authorized under the trade laws and negotia-  
3 tions with foreign countries;

4 “(C) the role of each Federal agency par-  
5 ticipating in the interagency program in achiev-  
6 ing such objectives and priorities and activities  
7 of each agency with respect to their participa-  
8 tion in the program;

9 “(D) the United States Trade Representa-  
10 tive’s coordination of each participating Federal  
11 agency to more effectively achieve such objec-  
12 tives and priorities;

13 “(E) any proposed legislation necessary or  
14 appropriate to achieve any of such objectives or  
15 priorities; and

16 “(F) the progress that was made during  
17 the preceding year in achieving such objectives  
18 and priorities and coordination activities in-  
19 cluded in the statement provided for such year  
20 under this paragraph.”.

21 (c) RESOURCE MANAGEMENT AND STAFFING

22 PLANS.—

23 (1) ANNUAL PLAN.—

1 (A) IN GENERAL.—The United States  
2 Trade Representative shall on an annual basis  
3 develop a plan—

4 (i) to match available resources of the  
5 Office of the United States Trade Rep-  
6 resentative to projected workload and pro-  
7 vide a detailed analysis of how the funds  
8 allocated from the prior fiscal year to date  
9 have been spent;

10 (ii) to identify existing staff of the Of-  
11 fice and new staff that will be necessary to  
12 support the trade negotiation and enforce-  
13 ment functions and powers of the Office  
14 (including those of the Trade Policy Staff  
15 Committee) as described in section 141 of  
16 the Trade Act of 1974 (19 U.S.C. 2171)  
17 and section 301 of the Trade Act of 1974  
18 (19 U.S.C. 2411);

19 (iii) to identify existing staff of the  
20 Office and staff of other Federal agencies  
21 who will be required to be detailed to sup-  
22 port United States Trade Representative-  
23 led interagency programs, including any  
24 associated expenses; and



1 (iv) to provide a detailed analysis of  
2 the budgetary requirements of United  
3 States Trade Representative-led inter-  
4 agency programs for the next fiscal year  
5 and provide a detailed analysis of how the  
6 funds allocated from the prior fiscal year  
7 to date have been spent.

8 (B) REPORT.—The United States Trade  
9 Representative shall submit to the Committee  
10 on Ways and Means and the Committee on Ap-  
11 propriations of the House of Representatives  
12 and the Committee on Finance and the Com-  
13 mittee on Appropriations of the Senate a report  
14 that contains the plan required under subpara-  
15 graph (A). The report required under this sub-  
16 paragraph shall be submitted in conjunction  
17 with the annual budget of the United States  
18 Government required to be submitted to Con-  
19 gress under section 1105 of title 31, United  
20 States Code.

21 (2) QUADRENNIAL PLAN.—

22 (A) IN GENERAL.—Pursuant to the goals  
23 and objectives of the strategic plan of the Office  
24 of the United States Trade Representative as  
25 required under section 306 of title 5, United

1 States Code, the United States Trade Rep-  
2 resentative shall every 4 years develop a plan—

3 (i) to analyze internal quality controls  
4 and record management of the Office;

5 (ii) to identify existing staff of the Of-  
6 fice and new staff that will be necessary to  
7 support the trade negotiation and enforce-  
8 ment functions and powers of the Office  
9 (including those of the Trade Policy Staff  
10 Committee) as described in section 141 of  
11 the Trade Act of 1974 (19 U.S.C. 2171)  
12 and section 301 of the Trade Act of 1974  
13 (19 U.S.C. 2411);

14 (iii) to identify existing staff of the  
15 Office and staff in other Federal agencies  
16 who will be required to be detailed to sup-  
17 port United States Trade Representative-  
18 led interagency programs, including any  
19 associated expenses;

20 (iv) to provide an outline of budget  
21 justifications, including salaries and ex-  
22 penses as well as non-personnel adminis-  
23 trative expenses, for the fiscal years re-  
24 quired under the strategic plan; and

1 (v) to provide an outline of budget  
2 justifications, including salaries and ex-  
3 penses as well as non-personnel adminis-  
4 trative expenses, for United States Trade  
5 Representative-led interagency programs  
6 for the fiscal years required under the  
7 strategic plan.

8 (B) REPORT.—

9 (i) IN GENERAL.—The United States  
10 Trade Representative shall submit to the  
11 Committee on Ways and Means and the  
12 Committee on Appropriations of the House  
13 of Representatives and the Committee on  
14 Finance and the Committee on Appropria-  
15 tions of the Senate a report that contains  
16 the plan required under subparagraph (A).  
17 Except as provided in clause (ii), the re-  
18 port required under this clause shall be  
19 submitted in conjunction with the strategic  
20 plan of the Office as required under sec-  
21 tion 306 of title 5, United States Code.

22 (ii) EXCEPTION.—The United States  
23 Trade Representative shall submit to the  
24 congressional committees specified in  
25 clause (i) an initial report that contains

1 the plan required under subparagraph (A)  
2 not later than February 1, 2013.

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