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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2012

Mr. MCDERMOTT (for himself and Mr. LEVIN) 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.

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-

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 Enhanced Enforcement and Trade Facilitation

6

Act of 2012”.

(b) Table of Contents.—The table of contents for

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. 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

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

Sec. 301. Prevention and investigation of evasion.
Sec. 302. Application to Canada and Mexico.

Subtitle B—Other Matters

Sec. 311. Definitions.
Sec. 312. Allocation and training of personnel.
Sec. 313. Regulations.
Sec. 314. Annual report on prevention of evasion of antidumping and countervailing duty orders.
Sec. 316. 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. 502. Office of the United States Trade Representative.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE.—The term “Commercial Customs Operations Advisory Committee” means the Advisory Committee established pursuant to section 202 of this Act or any successor committee.
(2) Commercial operations.—The term “commercial operations”, with respect to the U.S. Customs and Border Protection Agency, includes—

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

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

(C) coordinating all efforts of the Department of Homeland Security to facilitate legitimate international trade and to enforce the customs and trade laws of the United States;

(D) coordinating, on behalf of the Department of Homeland Security, efforts among executive branch agencies to facilitate legitimate trade and to enforce the customs and trade laws of the United States, including—

(i) representing the Department of Homeland Security in interagency fora addressing such efforts; and
(ii) coordinating with the Director of U.S. Immigration and Customs Enforcement to develop and implement the Joint Strategic Plan;

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

(F) collecting, assessing, and disseminating information as appropriate and in accordance with law, regarding cargo destined for the United States, to ensure that such cargo complies with the customs and trade laws of the United States and to facilitate the legitimate international trade of such cargo;

(G) soliciting and considering on a regular basis input from the private sector, including the Commercial Customs Operations Advisory Committee, the Trade Support Network, and other entities affected by the efforts of the Federal Government to facilitate legitimate international trade and to enforce the customs and trade laws of the United States, with respect to—
(i) the implementation of new or amended customs and trade laws of the United States; and
(ii) the development, implementation, or revision of policies or regulations administered by the U.S. Customs and Border Protection Agency; and
(H) otherwise advising the Secretary of Homeland Security with respect to the development of policies associated with facilitating legitimate international trade and enforcing the customs and trade laws of the United States.

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

(A) The Tariff Act of 1930.

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

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


(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).
(F) Section 1 of the Act of June 26, 1930

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

(H) Section 1 of the Act of March 2, 1911


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

(L) The Uruguay Round Agreements Act.

(M) The Caribbean Basin Economic Re-
cover Act.


(O) The African Growth and Opportunity
Act.

1381, chapter 348; 19 U.S.C. 2071 et seq.).

(Q) The Customs Enforcement Act of

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

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


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

(X) Any other provision of law relating to customs facilitation or trade enforcement that is administered by the U.S. Customs and Border Protection Agency on behalf of any Federal agency that is required to participate in the International Trade Data System established pursuant to section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)), as amended by section 204 of this Act.

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

(4) Customs revenue function.—The term “customs revenue function” has the meaning given that term in section 415 of the Homeland Security Act of 2002 (6 U.S.C. 215).
(5) Importer.—The term “importer” means one of the parties qualifying as an importer of record under section 484(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(6) Nonresident importer.—The term “nonresident importer” means an importer who is—

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

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

(7) Joint Strategic Plan.—The term “Joint Strategic Plan” means the plan required by section 131 of this Act.

(8) Trade Support Network.—The term “Trade Support Network” means representatives of the private sector that provide input on the design and development of modernization projects of the U.S. Customs and Border Protection Agency.
TITLE I—CUSTOMS FACILITATION

Subtitle A—Functions Other Than Investigative Functions

SEC. 101. ESTABLISHMENT OF AGENCY; COMMISSIONER.

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

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

“(a) Establishment of U.S. Customs and Border Protection Agency.—There is established in the Department of Homeland Security the U.S. Customs and Border Protection Agency.

“(b) Establishment of Commissioner of U.S. Customs and Border Protection.—The head of the U.S. Customs and Border Protection Agency shall be a Commissioner of U.S. Customs and Border Protection (in this Act referred to as the ‘Commissioner’), who shall—

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

“(2) carry out the duties described in subsection (c); and

“(3) report directly to the Secretary of Homeland Security.
“(c) DUTIES.—

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

“(A) carry out the duties and powers prescribed by law or by the Secretary of Homeland Security;

“(B) direct the administration of the commercial operations of the U.S. Customs and Border Protection Agency and the enforcement of the customs and trade laws of the United States; and

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

“(2) DEFINITIONS.—In this subsection, the terms ‘commercial operations’ and ‘customs and trade laws of the United States’ have the meanings given such terms in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012.

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

(b) Administrative Continuity.—

(1) In general.—The Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2073), is amended by striking section 3 and inserting the following:

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

“(a) In General.—Effective on the date of the enactment of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012, the functions and associated personnel, assets, and liabilities, identified under section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) on the day before such date of enactment, are transferred to the U.S. Customs and Border Protection Agency.

“(b) Continuation in Office.—The individual serving as Commissioner of Customs, in the Department of Homeland Security, on the day before the date of the enactment of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012 may serve as the Commissioner of the U.S. Customs and Border Protection Agency until the earlier of—
“(1) the date on which such individual is no longer eligible to serve as Commissioner of Customs; or

“(2) the date on which a person nominated by the President to be the Commissioner of U.S. Customs and Border Protection is confirmed by the Senate.”.

(2) REPEAL.—Section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211), and the item relating to that section in the table of contents for that Act, are repealed.

(c) REFERENCE.—On and after the effective date of this Act, any reference in law or regulations to the “Commissioner of Customs” or the “Commissioner of the Customs Service” shall be deemed to be a reference to the Commissioner of U.S. Customs and Border Protection established pursuant to section 1 of the Act of March 3, 1927, as amended by subsection (a) of this section.

(d) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking “Commissioner of Customs, Department of Homeland Security” and inserting “Commissioner of U.S. Customs and Border Protection, Department of Homeland Security”.

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SEC. 102. OFFICERS AND EMPLOYEES.

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

"(a) DEPUTY COMMISSIONER.—

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

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

"(3) DUTIES.—The duties of the Deputy Commissioner shall include—

"(A) overseeing the commercial operations of the U.S. Customs and Border Protection Agency, including the operations of the Office of International Trade and all other offices of the Agency whose duties primarily relate to the commercial operations of the Agency;

"(B) resolving issues relating to the commercial operations of the U.S. Customs and
Border Protection Agency, including liaising between offices primarily charged with carrying out the commercial operations of the Agency and any operational or port level office, including the Office of Field Operations or any successor office, in the administration of duties relating to the commercial operations of the Agency;

“(C) overseeing the development and implementation information technology, research, and communication functions of the U.S. Border and Protection Agency that affect the commercial operations of the Agency, including modernization strategies, that support the commercial operations of the Agency, including the implementation of the Automated Commercial Environment computer system authorized under section 13031(f)(5) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(5));

“(D) overseeing the customs revenue functions of the U.S. Customs and Border Protection Agency in consultation, as appropriate, with the Deputy Assistant Secretary for Tax,
Trade, and Tariff Policy of the Department of the Treasury or any successor position;

“(E) overseeing the administration of customs revenue functions of the U.S. Customs and Border Protection Agency; and

“(F) consulting with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on a regular and timely basis regarding the administration of the commercial operations of the U.S. Customs and Border Protection Agency, including—

“(i) the status and substance of international negotiations relating to the customs and trade laws of the United States, or of foreign countries, in which personnel of the Agency are participating;

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

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

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

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

“(4) ABSENCE OR DISABILITY OF DEPUTY COMMISSIONER.—The Assistant Commissioner of the Office of International Trade shall act as the Deputy Commissioner during the disability of the Deputy Commissioner, or in the event that there is no Deputy Commissioner.”.

(b) TRADE ADVOCATE.—Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), as amended by subsection (a) of this section, is further amended by striking subsection (b) and inserting the following:

“(b) TRADE ADVOCATE.—

“(1) IN GENERAL.—The Commissioner shall appoint within the U.S. Customs and Border Protection Agency, a Trade Advocate, who shall report directly to the Commissioner.
“(2) QUALIFICATIONS.—A person appointed to
be Trade Advocate shall have not less than 5 years
experience working in international trade in the pri-

cate sector.

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

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

“(B) assist the Commissioner in resolving
issues relating to the commercial operations of
the Agency by effectively communicating the
perspectives held by interested parties in the
private sector, including domestic producers,
and other private commercial interests;

“(C) consult with interested parties in the
private sector, including domestic producers,
the Commercial Customs Operations Advisory
Committee, and the Trade Support Network,
for their input with respect to the Agency’s—

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

“(ii) development of the Joint Strat-
egic Plan required under section 131 of
the Customs Enhanced Enforcement and
Trade Facilitation Act of 2012;

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

“(iv) trade modernization activities,
including the development and implementa-
tion of the Automated Commercial Envi-
ronment computer system authorized
under section 13031(f)(5) of the Consoli-
dated Omnibus Budget and Reconciliation
Act of 1985 (19 U.S.C. 58e(f)(5)) and
support for the establishment of the Inter-
national Trade Data System under the
oversight of the Department of the Treas-
ury pursuant to section 411(d) of the Tar-
iff Act of 1930 (19 U.S.C. 1411(d));

“(D) advise the Commissioner with respect
to the consultations described in subparagraph
(C); and
“(E) otherwise consult with the public as directed by the Commissioner or by law.”.

(c) OTHER OFFICERS.—Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), as amended by subsections (a) and (b) of this section, is further amended by striking subsection (c) and inserting the following:

“(c) OTHER OFFICERS.—The Secretary of Homeland Security may appoint such other officers as are necessary to manage the individual offices within the U.S. Customs and Border Protection Agency. Any appointment of personnel under this subsection shall be subject to the provisions of the civil service laws, and the salaries of such personnel shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.”.

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

(1) in paragraph (1), by striking “United States Customs and Border Protection” and inserting “U.S. Customs and Border Protection Agency”;

and

(2) in paragraph (2)—
(A) in the heading, by striking ‘‘; ELIMINATION OF OFFICES’’;

(B) by striking subparagraph (A) and inserting the following:

“(A) OFFICE OF FIELD OPERATIONS.—

“(i) TRANSFER.—

“(I) IN GENERAL.—Not later than 90 days after the date of enactment of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012, the Commissioner shall transfer to the Office of International Trade established pursuant to paragraph (1) the assets, functions (other than administrative functions), and personnel described in subclause (II) of the Office of Field Operations.

“(II) PERSONNEL DESCRIBED.—

The personnel of the Office of Field Operations referred to in subclause (I) are the following:

“(aa) Personnel having the statutory authority to classify and appraise goods entering the United States.
“(bb) Personnel having the responsibility to act as principal point of contact and technical experts with respect to goods entering the United States, including responsibilities relating to collection and deposit of duties, taxes, and fees.

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

“(ii) ASSISTANT COMMISSIONER IN THE OFFICE OF INTERNATIONAL TRADE.—The assets, functions, and personnel transferred to the Office of International Trade pursuant to clause (i) shall be under the authority of the Assistant Commissioner in the Office of International Trade.

“(iii) TRAINING.—Not later than 18 months after the date of the enactment of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012, the Commissioner shall ensure that sufficient training with respect to facilitating legitimate international trade and enforcing the cus-
toms and trade laws of the United States has been provided to personnel transferred to the Office of International Trade pursuant to clause (i).

“(iv) LIMITATION ON FUNDS.—No funds appropriated to the U.S. Customs and Border Protection Agency may be used to transfer the assets, functions, or personnel of the Office of Field Operations to an office other than the Office of International Trade.”;

(C) by striking subparagraph (B);

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

(E) in subparagraph (B), as redesignated by subparagraph (D) of this paragraph, by striking “United States Customs and Border Protection” and inserting “U.S. Customs and Border Protection Agency”; and

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

(i) by striking “United States Customs and Border Protection” and inserting
“U.S. Customs and Border Protection Agency”; and

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

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

“(f) DEFINITIONS.—In this section—

“(1) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border Protection; and

“(2) the terms ‘Commercial Customs Operations Advisory Committee’, ‘commercial operations’, ‘customs and trade laws of the United States’, and ‘Trade Support Network’ have the meaning given such terms in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012.”.

(f) UNITED STATES TRADE REPRESENTATIVE REVIEW OF CUSTOMS REGULATIONS, INTERPRETATIONS, AND PRACTICES.—The Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071 et seq.), is amended by inserting after section 3 the following:
SEC. 4. UNITED STATES TRADE REPRESENTATIVE REVIEW OF CUSTOMS REGULATIONS, INTERPRETATIONS, AND PRACTICES.

“(a) REFERRAL.—The Commissioner of U.S. Customs and Border Protection shall consult with the United States Representative with respect to any proposed change to a regulation, interpretation, or practice of the Agency relating to commercial operations of the Agency that implicates compliance by the United States Government with its international trade obligations.

“(b) DEFINITION.—In this section, the term ‘commercial operations’ has the meaning given the term in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012.”.

(g) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Commissioner of U.S. Customs and Border Protection, Department of Homeland Security.”.

SEC. 103. SEPARATE BUDGET FOR U.S. CUSTOMS AND BORDER PROTECTION AGENCY.

(a) IN GENERAL.—The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request
for the commercial operations of the U.S. Customs and
Border Protection Agency.
(b) REPEAL.—Section 414 of the Homeland Security
Act of 2002 (6 U.S.C. 214), and the item relating to that
section in the table of contents of that Act, are repealed.

SEC. 104. REVOLVING FUND.

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

SEC. 105. ADVANCES IN FOREIGN COUNTRIES.

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

SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS

PROVISIONS.

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

“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PROVISIONS.

“The Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, with the approval of the Secretary of Homeland Security and the Secretary of the Treasury, are each authorized to direct the advance of funds by the Fiscal Service in the Department of the Treasury, in connection with the enforcement of the customs and trade laws of the United States (as defined in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012).”.

SEC. 107. CERTIFICATION OF REASON FOR ADVANCE.

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

SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR REIMBURSEMENT.

Section 4 of the Act of August 7, 1939 (53 Stat. 1263, chapter 566; 19 U.S.C. 2079), is amended to read as follows:
“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR REIMBURSEMENT.

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

SEC. 109. CUSTOMS ADMINISTRATION.

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

“SEC. 113. CUSTOMS ADMINISTRATION.

“(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement each shall—

“(1) develop and implement accounting systems that accurately determine and report the allocation of the personnel and other resources of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement among the various operational functions of each Agency, including merchandise processing and customs and trade law enforcement; and
“(2) for fiscal year 2013 and each subsequent fiscal year, develop and implement labor distribution surveys of major workforce activities within the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement to determine the cost of the various operational functions of each Agency and the extent to which the costs of one Agency are covered by the other Agency.

“(b) SURVEY REPORTS.—The Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement shall each, not later than December 31, 2013, and December 31 of each subsequent calendar year, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the results of the surveys implemented under paragraph (2) of subsection (a) for the preceding fiscal year.”

SEC. 110. DESIGNATION OF TRADE OVERSIGHT PERSONNEL.

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

“(c) DESIGNATION OF TRADE OVERSIGHT PERSONNEL.—Not later than 90 days after the date of the enactment of the Customs Enhanced Enforcement and
Trade Facilitation Act of 2012, the Secretary of the Treasury shall designate and dedicate not less than 5 full-time equivalent personnel to work exclusively with the Deputy Assistant Secretary of the Treasury for Tax, Trade, and Tariff Policy in the performance and oversight of customs revenue functions.”.

SEC. 111. CONSULTATION ON TRADE AND CUSTOMS REVENUE FUNCTIONS.

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

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

(2) in paragraph (2)(A), by striking “not later than 30 days prior to the finalization of” and inserting “not later than 60 days before proposing, and not later than 60 days before finalizing,”.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—
(i) by striking “October 1, 1979” and inserting “October 1, 2012”; and

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

(B) by striking paragraph (2) and inserting the following:

“(2) REQUIREMENT FOR AUTHORIZATION.—
The authorization of the appropriations for the U.S. Customs and Border Protection Agency for each fiscal year after fiscal year 2012 shall specify the amount authorized for the fiscal year for the salaries and expenses of the Agency in conducting commercial operations.”; and

(C) by striking paragraph (3);

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

“(b) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated for the salaries and expenses of the U.S. Customs and Border Protection Agency that are incurred in commercial operations—
“(A) not less than $1,800,000,000 for fiscal year 2013;

“(B) not less than $1,817,000,000 for fiscal year 2014; and

“(C) not less than $1,830,000,000 for fiscal year 2015.

“(2) CUSTOMS USER FEE ACCOUNT.—The monies authorized to be appropriated pursuant to paragraph (1) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the U.S. Customs and Border Protection Agency that are incurred in connection with the processing of merchandise that is exempt from the fees imposed pursuant to section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)), shall be appropriated from the Customs User Fee Account.

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

“(d) OVERTIME PAY LIMITATIONS; WAIVER.—No part of the funds appropriated pursuant to subsection (a) for any fiscal year may be used for administrative ex-
penses to pay any customs officer overtime pay in an amount exceeding $35,000 unless the Secretary of Homeland Security determines on an individual basis that payment of overtime pay to such officer in an amount exceeding $35,000 is necessary for national security purposes, to prevent excessive costs, or to meet emergency requirements of the Agency.”;

(3) in subsection (e)—

(A) by striking “October 1, 1982” and inserting “October 1, 2012”; 

(B) by striking “Department of the Treasury for salaries of the United States Customs Service” and inserting “Department of Homeland Security for salaries of the U.S. Customs and Border Protection Agency”; and 

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

(4) by striking subsections (f) and (g) and inserting the following:

“(f) Use of Savings Resulting From Administrative Consolidations.—If savings in salaries and expenses result from the consolidation of administrative
functions within the U.S. Customs and Border Protection Agency, the Commissioner of U.S. Customs and Border Protection shall apply the savings, to the extent the savings are not needed to meet emergency requirements of the Agency, to strengthening the commercial operations of the Agency by increasing the number of personnel dedicated to administering such commercial operations.

“(g) ALLOCATION OF RESOURCES; REPORT TO CONGRESSIONAL COMMITTEES.—The Commissioner of U.S. Customs and Border Protection shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action that would—

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

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

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

“(4) eliminate any United States port of entry; or
“(5) significantly reduce the number of employees assigned to any office or any function of the U.S. Customs and Border Protection Agency.”; and

(5) by adding at the end the following:

“(i) DEFINITION.—In this section, the term ‘commercial operations’ has the meaning given such term in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012.’’.

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

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

“(e) LIMITATIONS.—

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

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

Subtitle B—Investigative Functions

SEC. 121. SEPARATE BUDGET FOR U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT.

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

SEC. 122. AUTHORIZATION OF APPROPRIATIONS.

Title III of the Customs Procedural Reform and Sim-
plification Act of 1978 (19 U.S.C. 2075) is amended by
inserting after section 301 the following:
“SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN CUSTOMS ENFORCEMENT ACTIVITIES.

“(a) IN GENERAL.—

“(1) FISCAL YEARS BEGINNING ON OR AFTER OCTOBER 1, 2012.—For the fiscal year beginning October 1, 2012, and each fiscal year thereafter, there are authorized to be appropriated to the U.S. Immigration and Customs Enforcement of the Department of Homeland Security for the enforcement of the customs and trade laws of the United States only such sums as may be authorized by law.

“(2) SPECIFICATION OF AMOUNTS.—The authorization of the appropriations for the U.S. Immigration and Customs Enforcement for each fiscal year after fiscal year 2012 shall specify the amount authorized for the fiscal year for the salaries and expenses of U.S. Immigration and Customs Enforcement for the enforcement of the customs and trade laws of the United States.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the salaries and expenses of the U.S. Immigration and Customs Enforcement that are incurred in enforcement of the customs and trade laws of the United States—

“(1) not less than $86,000,000 for fiscal year 2013;
“(2) not less than $88,150,000 for fiscal year 2014; and
“(3) not less than $90,200,000 for fiscal year 2015.

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

Subtitle C—Joint Strategic Plan

SEC. 131. JOINT STRATEGIC PLAN.

(a) In General.—Not later than June 30, 2013, and every 2 years thereafter, the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement shall jointly develop and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, a Joint Strategic Plan.

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

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

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

(3) a specific identification of the priority trade
issues described in paragraph (3)(B)(ii) of section
2(d) of the Act of March 3, 1927 (44 Stat. 1381,
chapter 348; 19 U.S.C. 2072(d)), as added by sec-
tion 211(a) of this Act;

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

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

(6) a specific identification of any domestic or international best practices that may further improve such enforcement and facilitation; and

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

(c) Consultations.—

(1) In general.—In developing the Joint Strategic Plan required under this section, the Commissioner and the Director shall consult with—

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

(i) the Department of the Treasury;

(ii) the Department of Agriculture;

(iii) the Department of Commerce;

(iv) the Department of Justice;

(v) the Department of the Interior;

(vi) the Department of Health and Human Services;

(vii) the Food and Drug Administration;
(viii) the Consumer Product Safety Commission; and

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

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

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

(A) appropriate officials from relevant foreign law enforcement agencies and international organizations, including the World Customs Organization; and

(B) interested parties in the private sector, including domestic producers.
TITLE II—CUSTOMS FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY
Subtitle A—Customs Facilitation and Transparency

SEC. 201. CONSULTATIONS WITH RESPECT TO MUTUAL RECOGNITION AGREEMENTS.

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

(1) consult, not later than 30 days before initiating negotiations to enter into any such agreement, with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives; and

(2) consult, not later than 30 days before entering into any such agreement, with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 202. COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE.

(a) Establishment.—Not later than 60 days after the date of enactment of this Act, the Secretary of the
Treasury and the Secretary of Homeland Security shall jointly establish a Commercial Customs Operations Advisory Committee (in this section referred to as the "Advisory Committee").

(b) Membership.—

(1) In general.—The Advisory Committee shall be comprised of—

(A) 20 individuals appointed under paragraph (2);

(B) the Assistant Secretary for Tax Policy of the Department of the Treasury and the Assistant Secretary of Policy and Planning of the Department of Homeland Security, who shall jointly co-chair meetings of the Advisory Committee; and

(C) the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, who shall serve as deputy co-chairs of meetings of the Advisory Committee.

(2) Appointment.—

(A) In general.—The Secretary of the Treasury and the Secretary of Homeland Security shall jointly appoint 20 individuals from the private sector to the Advisory Committee.
(B) REQUIREMENTS.—In making appointments under subparagraph (A), the Secretary of the Treasury and the Secretary of Homeland Security shall appoint members—

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

(ii) to ensure that a majority of the individuals are not members of the same political party; and

(iii) to ensure that domestic manufacturing parties are represented.

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

(1) advise the Secretary of the Treasury and the Secretary of Homeland Security on matters involving the commercial operations of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement, including advising with respect to significant changes that are proposed with respect to agency regulations, policies, or practices;
(2) provide recommendations to the Secretary of the Treasury and the Secretary of Homeland Security on improvements to the commercial operations of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement; and

(3) perform such other functions relating to the commercial operations of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement as prescribed by law or as the Secretary of the Treasury and the Secretary of Homeland Security jointly direct.

(d) MEETINGS.—The Advisory Committee shall meet at the call of the Secretary of the Treasury and the Secretary of Homeland Security.

(e) ANNUAL REPORT.—Not later than December 31 of each calendar year, the Advisory Committee shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

(1) describes the activities of the Advisory Committee during the preceding fiscal year; and

(2) sets forth any recommendations of the Advisory Committee regarding the commercial operations
of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement.

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

(g) **CONFORMING AMENDMENT.**—

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

(2) **REFERENCE.**—Any reference in law to the Advisory Committee on Commercial Operations of the United States Customs Service established under section 9503(e) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) made on or after the date on which the Advisory Committee is established under subsection (a), shall be deemed a reference to the Commercial Customs Operations Advisory Committee established under subsection (a).
SEC. 203. AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.

(a) FUNDING.—Section 13031(f)(5) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(5)) is amended—

(1) in subparagraph (A)—

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

(B) by striking “$350,000,000” and inserting “$700,242,000”; and

(2) in subparagraph (B)—

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

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

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

(b) REPORT.—Section 311(b)(3) of the Customs Border Security Act of 2002 (19 U.S.C. 2075 note) is amended to read as follows:

“(3) REPORT.—

“(A) IN GENERAL.—Not later than December 31, 2012, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Appropriations and the Com-
mittee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives a report specifying—

“(i) the plans of the U.S. Customs and Border Protection Agency and deadlines for incorporating all cargo release data elements into the Automated Commercial Environment computer system not later than September 30, 2015, to conform with the admissibility criteria of agencies participating in the International Trade Data System identified pursuant to section 411(d)(4)(A)(iii) of the Tariff Act of 1930;

“(ii) the Agency’s remaining priorities for incorporating entry summary data elements, cargo manifest data elements, cargo financial data elements, and export elements into the Automated Commercial Environment computer system; and

“(iii) the Agency’s objectives, plans, and deadlines for implementing the priorities identified under clause (ii) not later than September 30, 2015.
“(B) Update of reports.—Not later than December 31, 2014, and September 30, 2015, the Commissioner shall submit to the Committee on Appropriations and the Committee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives an updated report addressing each of the matters referred to in subparagraph (A).”.

(c) Government Accountability Office Report.—Not later than December 31, 2015, the Comptroller General of the United States shall submit to the Committee on Appropriations and the Committee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives a report—

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

(2) assessing the extent to which any additional functionality may be added into the Automated Commercial Environment computer system at a reasonable cost; and
(3) assessing the potential cost savings to the
United States Government and importers and ex-
porters and the potential benefits to enforcement of
the customs and trade laws of the United States if
the elements identified in clauses (i) and (ii) of sec-
tion 311(b)(3)(A) of the Customs Border Security
Act of 2002, as amended by subsection (b) of this
section, are implemented.

SEC. 204. INTERNATIONAL TRADE DATA SYSTEM.

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

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

“(F) PROHIBITION ON OTHER SYSTEMS
FOR CARGO CLEARANCE.—The Secretary shall
ensure that each agency that participates in the
ITDS use the ITDS to collect and distribute
data and documentation for clearing or licens-
ing the importation or exportation of cargo, in-
cluding to authorize the release of cargo by the
U.S. Customs and Border Protection Agency,
and does not use any other system for such
purposes.”;

(2) by redesignating paragraphs (4) through
(7) as paragraphs (5) through (8), respectively;
(3) by inserting after paragraph (3) the following:

“(4) INFORMATION TECHNOLOGY INFRASTRUCTURE.—The head of each Federal agency that requires documentation for clearing or licensing the importation and exportation of cargo shall—

“(A) develop and maintain the necessary information technology infrastructure to support the operation of the ITDS;

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

“(C) not later than March 31, 2013, identify and transmit to the Commissioner of U.S. Customs and Border Protection the admissibility criteria and data elements required by the agency to authorize the release of cargo by the U.S. Customs and Border Protection Agency for incorporation into the operational functionality of the Automated Commercial Environment computer system.”;
(4) in paragraph (5), as redesignated, by striking “each fiscal year” and inserting “each of the fiscal years 2010 through 2013”; and

(5) in paragraph (8), as redesignated, by striking “section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note)” and inserting “section 202 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012”.

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL RISK

ASSESSMENT TARGETING

SEC. 211. COMMERCIAL TARGETING DIVISION AND NATIONAL TARGETING AND ANALYSIS GROUPS.

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

“(3) Commercial targeting division and national targeting and analysis groups.—

“(A) Establishment of commercial targeting division.—

“(i) In general.—The Secretary of Homeland Security shall establish and maintain within the Office of International Trade a Commercial Targeting Division.
“(ii) COMPOSITION.—The Commercial Targeting Division shall be composed of—

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

“(II) individual National Targeting and Analysis Groups, each led by a Director who shall report to the Executive Director of the Commercial Targeting Division.

“(iii) DUTIES.—The Commercial Targeting Division shall be dedicated—

“(I) to the development and conduct of commercial risk assessment targeting with respect to cargo destined for the United States in accordance with subparagraph (C); and

“(II) to issuing Trade Alerts described in subparagraph (D).

“(B) NATIONAL TARGETING AND ANALYSIS GROUPS.—

“(i) IN GENERAL.—A National Targeting and Analysis Group referred to in
subparagraph (A)(ii)(II) shall, at a minimum, be established for each priority trade issue described in clause (ii).

“(ii) PRIORITY TRADE ISSUES.—

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

“(aa) Agriculture programs.

“(bb) Antidumping and countervailing duties.

“(cc) Import safety.

“(dd) Intellectual property rights.

“(ee) Penalties.

“(ff) Revenue.

“(gg) Textiles.

“(hh) Trade agreements.

“(II) MODIFICATION.—The Commissioner is authorized to establish new priority trade issues and eliminate, consolidate, or otherwise modify the priority trade issues described in this paragraph if the Commissioner—
“(aa) determines it necessary and appropriate to do so; and

“(bb) submits to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a summary of the proposed changes to the priority trade issues not later than 60 days before such changes are to take effect.

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

“(I) directing the trade enforcement and compliance assessment activities of the U.S. Customs and Border Protection Agency that relate to the Group’s priority trade issue;

“(II) facilitating, promoting, and coordinating cooperation and the exchange of information between the U.S. Customs and Border Protection Agency, U.S. Immigration and Cus-
toms Enforcement, and other relevant Federal departments and agencies regarding the Group’s priority trade issue; and

“(III) serving as the primary liaison between the U.S. Customs and Border Protection Agency and the public regarding United States Government activities regarding the Group’s priority trade issue, including—

“(aa) providing for receipt and transmission to the appropriate U.S. Customs and Border Protection Agency office of allegations from interested parties in the private sector of violations of customs and trade laws of the United States of merchandise relating to the priority trade issue;

“(bb) obtaining information from the appropriate U.S. Customs and Border Protection Agency office on the status of any activities resulting from the
submission of any such allega-
tion, including any decision not
to pursue the allegation, and pro-
viding any such information to
each interested party in the pri-
vate sector that submitted the al-
legation every 90 days after the
allegation was received by the
U.S. Customs and Border Pro-
tection Agency; and

"(ce) notifying on a timely
basis each interested party in the
private sector that submitted
such allegation of any civil or
criminal actions taken by the
U.S. Customs and Border Pro-
tection Agency or other Federal
department or agency resulting
from the allegation.

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

"(i) establish targeted risk assessment
methodologies and standards—
“(I) for evaluating the risk that cargo destined for the United States may violate the customs and trade laws of the United States, particularly those laws applicable to merchandise subject to the priority trade issues described in subparagraph (B)(ii); and

“(II) for issuing, as appropriate, Trade Alerts described in subparagraph (D); and

“(ii) to the extent practicable and otherwise authorized by law, use information available from the Automated Commercial System, the Automated Commercial Environment computer system, the Automated Targeting System, the Automated Export System, the International Trade Data System, and the Treasury Enforcement Communications System, and any successor systems, to administer the methodologies and standards established under clause (i).

“(D) TRADE ALERTS.—

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

“(ii) Determinations not to im-
plement trade alerts.—The director 
of a United States port of entry may deter-
mine not to conduct further inspections, or 
physical examination or testing, pursuant 
to a Trade Alert issued under clause (i) 
if—

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

“(II) notifies the Assistant Com-
misioner of the Office of Field Oper-
ations of the U.S. Customs and Bor-
der Protection Agency of the deter-
mination and the reasons for the determination not later than 48 hours after making the determination.

“(iii) **Summary of determinations not to implement.**—The Assistant Commissioner of the Office of Field Operations of the U.S. Customs and Border Protection Agency shall—

“(I) compile an annual public summary of all determinations by directors of United States ports of entry under clause (ii) and the reasons for those determinations; and

“(II) submit the summary to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31 of each year.

“(iv) **Inspection defined.**—In this subparagraph, the term ‘inspection’ means the comprehensive evaluation process used by the U.S. Customs and Border Protection Agency, other than physical examination or testing, to permit the entry of mer-
chandise into the United States, or the clearance of merchandise for transportation in bond through the United States, for purposes of—

“(I) assessing duties;

“(II) identifying restricted or prohibited items; and

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

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

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

(2) in paragraph(3)—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K).
SEC. 212. CENTERS OF EXCELLENCE AND EXPERTISE.

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

“(4) Centers of excellence and expertise.—

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

“(B) Composition.—Each Center of Excellence and Expertise shall be composed of headquarters and field personnel of the U.S. Customs and Border Protection Agency led by an Executive Director, who shall report to the Assistant Commissioner of the Office of International Trade.

“(C) Duties.—Each Center of Excellence and Expertise shall be dedicated—

“(i) to facilitating legitimate trade through increasing specific industry knowledge and uniformity of cargo clearance procedures;

“(ii) to improving enforcement efforts of priority trade issues described in para-
graph (3)(B)(ii) in specific industry sectors through application of targeting information from the Commercial Targeting Division established under paragraph (3)(A) and from other means of verifications;

“(iii) to developing and implementing measurable benefits to the trade community;

“(iv) to fostering partnerships though the expansion of trade programs such as Importer Self Assessment program and other trusted partner programs;

“(v) to developing applicable performance measurements to meet internal efficiency and effectiveness goals; and

“(vi) to increasing the accuracy and completeness of international trade data and facilitate a more efficient flow of information between Federal departments and agencies.”.

SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTECTION AND ENFORCEMENT MEASURES.

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

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

(A) the collection of countervailing and antidumping duties;

(B) the assessment and collection of commercial fines and penalties; and

(C) the adequacy of the policies of the Agency with respect to monitoring and tracking of merchandise transported in bond and collecting duties, as appropriate.

(2) The effectiveness of actions taken by the U.S. Customs and Border Protection Agency to measure accountability and performance with respect to revenue protection.

(3) The number and outcome of investigations instituted by the U.S. Customs and Border Protection Agency with respect to the underpayment of duties.
(4) The adequacy of training with respect to the collection of duties provided for personnel of the U.S. Customs and Border Protection Agency.

(b) Timing of Report.—The report under subsection (a) shall be submitted not later than March 31, 2014, and not later than March 31 of each second year thereafter, with respect to the 2 fiscal year period ending on September 30 of the preceding calendar year.

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

(a) In General.—Not later than December 31 of 2013, 2014, and 2015 the Secretary of Homeland Security and the Secretary of the Treasury shall jointly submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on efforts undertaken by the U.S. Customs and Border Protection Agency to ensure the secure transportation of merchandise in bond through the United States and the collection of revenue owed upon the entry of such merchandise into the United States for consumption.

(b) Contents.—The report required by subsection (a) shall include information, for the fiscal year preceding the submission of the report, on—
(1) the overall number of entries of merchandise for transportation in bond through the United States;

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

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

(4) the average time taken to transport merchandise in bond from the port at which the merchandise arrives in the United States to its final destination in the United States;

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

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

(7) the number of entries that remain unreconciled.
SEC. 215. REPORT ON EFFECTIVENESS OF TRADE ENFORCEMENT ACTIVITIES.

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

(b) Contents.—The report shall include—

(1) a description of the use of resources, results of audits and verifications, targeting, organization, and training of the U.S. Customs and Border Protection Agency; and

(2) a description of trade enforcement activities to address undervaluation, transshipment, legitimacy of entities making entry, protection of revenues, fraud prevention and detection, and penalties, including intentional misclassification, inadequate bonding, and other misrepresentations.

SEC. 216. PRIORITIES AND PERFORMANCE STANDARDS FOR CUSTOMS MODERNIZATION, TRADE FACILITATION, AND TRADE ENFORCEMENT FUNCTIONS AND PROGRAMS.

(a) Priorities and Performance Standards.—
(1) IN GENERAL.—The Commissioner of U.S.
Customs and Border Protection, in consultation with
the Committee on Ways and Means of the House of
Representatives and the Committee on Finance of
the Senate, shall establish priorities and perform-
ance standards to measure the development and lev-
els of achievement of the Customs modernization,
trade facilitation, and trade enforcement functions
and programs described in subsection (b).

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

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

(1) The Automated Commercial Environment
computer system authorized under section
13031(f)(5) of the Consolidated Omnibus Budget
and Reconciliation Act of 1985 (19 U.S.C.
58c(f)(5)).

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

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

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

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

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

(7) The expedited clearance of cargo.

(8) The issuance of regulations and rulings.

(9) The issuance of Regulatory Audit Reports.

(c) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The Commissioner of U.S.
Customs and Border Protection shall submit to the
Committee on Ways and Means of the House of
Representatives and the Committee on Finance of
the Senate a description of the priorities and per-
formance standards referred to in subsection (a) not
later than 180 days after the date of enactment of this Act.

(2) PROPOSED CHANGES.—The Commissioner of U.S. Customs and Border Protection shall submit to the congressional committees referred to in paragraph (1) a description of any changes to the priorities and performance standards referred to in subsection (a) not later than 30 days before such changes are to take effect.

(d) REPORT.—Not later than December 31, 2013, and December 31 of each year thereafter, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the implementation of this section for the previous fiscal year.

SEC. 217. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS TO CLASSIFY AND APPRAISE IMPORTED ARTICLES AND TO IMPROVE TRADE ENFORCEMENT EFFORTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement
shall establish and carry out on a fiscal year basis educational seminars to—

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

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

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

(b) CONTENT.—

(1) CLASSIFYING AND APPRAISING IMPORTED ARTICLES.—In carrying out subsection (a)(1)(A), the Commissioner, the Director, and interested parties in the private sector selected under subsection (c) shall provide instruction and related instructional materials at each educational seminar under this section to U.S. Customs and Border Protection Agency personnel and, as appropriate, to U.S. Immig-
igration and Customs Enforcement Agency personnel
on the following:

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

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

(C) Customs valuation.

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

(2) TRADE ENFORCEMENT EFFORTS.—In car-
yrying out subsection (a)(1)(B), the Commissioner,
the Director, and interested parties in the private
sector selected under subsection (c) shall provide in-
struction and related instructional materials at each
educational seminar under this section to U.S. Cus-
toms and Border Protection Agency personnel and,
as appropriate, to U.S. Immigration and Customs
Enforcement Agency personnel to identify opportunities to enhance enforcement of the following:


(B) Addressing evasion of duties on imports of textiles.

(C) Protection of intellectual property rights.

(D) Enforcement of child labor laws.

(3) APPROVAL OF COMMISSIONER AND DIRECTOR.—The instruction and related instructional materials at each educational seminar under this section shall be subject to the approval of the Commissioner and the Director.

(c) SELECTION PROCESS.—

(1) IN GENERAL.—The Commissioner shall establish a process to solicit, evaluate, and select interested parties in the private sector for purposes of assisting in providing instruction and related instructional materials described in subsection (b) at each educational seminar under this section.
(2) CRITERIA.—The Commissioner shall evaluate and select interested parties in the private sector under the process established under paragraph (1) based on—

(A) availability and usefulness;

(B) the volume, value, and incidence of mislabeling or misidentification of origin of imported articles; and

(C) other appropriate criteria established by the Commissioner.

(3) PUBLIC AVAILABILITY.—The Commissioner shall publish in the Federal Register a detailed description of the process established under paragraph (1) and the criteria established under paragraph (2).

(d) SPECIAL RULE FOR ANTIDUMPING AND COUNTEVAILING ORDERS.—

(1) IN GENERAL.—The Commissioner shall give due consideration to carrying out an educational seminar under this section in whole or in part to improve the ability of U.S. Customs and Border Protection Agency personnel to enforce a countervailing or antidumping duty order issued under section 706 or 736 of the Tariff Act of 1930 (19 U.S.C. 1671e or 1673e) upon the request of a petitioner in an ac-
tion underlying such countervailing or antidumping
duty order.

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

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

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

(g) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term “Commission-
ioner” means the Commissioner of U.S. Customs
and Border Protection.

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

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

(4) U.S. CUSTOMS AND BORDER PROTECTION AGENCY PERSONNEL.—The term “U.S. Customs and Border Protection Agency personnel” means import specialists, auditors, and other appropriate employees of the U.S. Customs and Border Protection Agency.


CHAPTER 2—IMPORTER REQUIREMENTS

SEC. 221. IMPORTER OF RECORD PROGRAM.

(a) Establishment.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish an importer of record program to assign and maintain importer of record numbers.

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

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

(A) criteria to ensure sufficient information is collected to allow the U.S. Customs and Border Protection Agency to verify the existence of the importer requesting the importer of record number;

(B) criteria to ensure sufficient information is collected to allow the U.S. Customs and Border Protection Agency to identify linkages or other affiliations between importers that are requesting or have been assigned importer of record numbers; and

(C) criteria to ensure sufficient information is collected to allow the U.S. Customs and Border Protection Agency to identify changes in address and corporate structure of importers;

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

(3) maintains a centralized database of importer of record numbers, including a history of importer of record numbers associated with each im-
porter, and the information described in subparagraphs (A), (B), and (C) of paragraph (1);

(4) evaluates the accuracy of the database; and

(5) takes measures to ensure that duplicate importer of record numbers are not issued.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the importer of record program established under subsection (a).

(d) NUMBER DEFINED.—In this subsection, the term “number”, with respect to an importer of record, means a filing identification number described in section 24.5 of title 19, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

SEC. 222. CUSTOMS BROKER IDENTIFICATION OF IMPORTERS.

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

“(i) IDENTIFICATION OF IMPORTERS.—

“(1) IN GENERAL.—The Secretary shall prescribe regulations setting forth the minimum standards for customs brokers and importers, including
nonresident importers, regarding the identity of the
importer that shall apply in connection with the im-
portation of merchandise into the United States.

“(2) Minimum Requirements.—The regula-
tions shall, at a minimum, require customs brokers
to implement, and importers (after being given ade-
quate notice) to comply with, reasonable procedures
for—

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

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

“(3) Penalties.—Any customs broker who
fails to collect information required under the regu-
lations prescribed under this subsection shall be lia-
bile to the United States, at the discretion of the
Secretary, for a monetary penalty not to exceed
$10,000 for each violation of those regulations and
subject to revocation or suspension of a license or
permit of the customs broker pursuant to the proce-
dures set forth in subsection (d).
“(4) DEFINITIONS.—In this subsection, the terms ‘importer’ and ‘nonresident importer’ have the meaning given such terms in section 2 of the Customs Enhanced Enforcement and Trade Facilitation Act of 2012.”.

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

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

(2) establishing a system for customs brokers to review information maintained by relevant Federal agencies for purposes of verifying the identities of importers, including nonresident importers, seeking to import merchandise into the United States.
SEC. 223. ESTABLISHMENT OF “NEW IMPORTER” PROGRAM.

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

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

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

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

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

(2) develops procedures to ensure increased
oversight of imported products of new importers rel-
lating to the enforcement of the priority trade issues
described in paragraph (3)(B)(ii) of section 2(d) of
the Act of March 3, 1927 (44 Stat. 1381, chapter
348; 19 U.S.C. 2072(d)), as added by section 211(a)
of this Act;
(3) develops procedures to ensure increased oversight of imported products of new importers by Centers of Excellence and Expertise established under section 212; and

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

SEC. 224. REQUIREMENTS APPLICABLE TO NON-RESIDENT IMPORTERS.

(a) In General.—Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by inserting after section 484b the following new section:

"SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESIDENT IMPORTERS.

"(a) In General.—Except as provided in subsection (c), if an importer of record under section 484 of this Act is not a resident of the United States, the Commissioner of U.S. Customs and Border Protection shall require the non-resident importer to designate a resident agent in the United States subject to the requirements described in subsection (b).

"(b) REQUIREMENTS.—The requirements described in this subsection are the following:
“(1) The resident agent shall be authorized to accept service of process against the non-resident importer in connection with the importation of merchandise.

“(2) The resident agent shall be liable to the United States for payment of duties and penalties or other fines issued by the Secretary of Homeland Security or the Commissioner if the Secretary or Commissioner is unable to collect such duties and penalties or other fines from such non-resident importer in connection with the importation of merchandise.

“(3) The Secretary of the Treasury may require the resident agent to secure a bond or other security in connection with the importation of merchandise as the Secretary may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Commissioner may be authorized to enforce.

“(4) The Commissioner of U.S. Customs and Border Protection shall require the non-resident importer to establish a power of attorney with the resident agent in connection with the importation of merchandise.
“(c) NON-APPLICABILITY.—The requirements of this section shall not apply with respect to a non-resident importer who is a validated Tier 2 or Tier 3 participant in the Customs-Trade Partnership Against Terrorism program established under subtitle B of title II of the SAFE Port Act (6 U.S.C. 961 et seq.).

“(d) PENALTIES.—

“(1) IN GENERAL.—It shall be unlawful for any person to import into the United States any merchandise in violation of this section.

“(2) CIVIL PENALTIES.—Any person who violates paragraph (1) shall be liable for a civil penalty of $50,000 for each such violation.

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

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

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

SEC. 225. CERTIFIED IMPORTER PROGRAM.

(a) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

There is established an interagency committee composed of representatives of each covered Federal agency.

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

(b) DUTIES.—The interagency committee shall—

(1) not later than December 30, 2014, and in consultation with interested parties in the private sector, establish a certified importer program as described in (c); and
(2) assess and make recommendations with respect to other trade facilitation benefits for certified importers.

(c) CERTIFIED IMPORTER PROGRAM.—

(1) IN GENERAL.—The certified importer program described in this subsection is a program to authorize the release of cargo imported by a certified importer on an expedited basis that is subject to documentation for clearing or licensing the importation or exportation of such cargo by one or more covered Federal agencies.

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

(d) DEFINITIONS.—In this section:

(1) CERTIFIED IMPORTER.—The term “certified importer” means an importer that—

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

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

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

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

(c) REPORT.—

(1) IN GENERAL.—Not later than March 31,
2014, the Commissioner of U.S. Customs and Bor-
der Protection shall submit to the Committee on Fi-
nance of the Senate and the Committee on Ways
and Means of the House of Representatives a report
assessing the progress in establishing the certified
importer program as described in subsection (c) and
coordination among the Commissioner and the heads
of each covered Federal agency in facilitating the
implementation of the certified importer program.

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

CHAPTER 3—IMPORT-RELATED PROTEC-
TION OF INTELLECTUAL PROPERTY
RIGHTS
SEC. 231. EXCHANGE OF INFORMATION RELATED TO
TRADE ENFORCEMENT.

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

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

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

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

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

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

“(C) if a sample is provided under subparagraph (B), any packing material accompanying the sample that bears either a mark suspected of being a counterfeit mark of the registered mark, or a work suspected of infringing the copyright,

as presented to the United States Customs and Border Protection Agency, without redaction, whether imported into or exported from, or attempted to be exported from, the United States, to assist the Secretary in determining whether the merchandise, packaging, or packing material infringes the copyright or bears or consists of a counterfeit mark of the registered mark.

“(2) NONDISCLOSURE.—

“(A) IN GENERAL.—Any owner of a copyright or a registered mark to whom information, a sample, an image, or material described
in subparagraph (A), (B), or (C) of paragraph
(1) is provided under paragraph (1) may not
disclose it to any other person or use it for a
purpose other than the purpose described in
paragraph (1).

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

“(C) Use in Judicial Proceedings
Barred.—Information, samples, images, or
material described in subparagraph (A), (B), or
(C) of paragraph (1), or information obtained
from the provision of information, samples, im-
ages, or material under any such subparagraph,
may not be used by the owner of a copyright or
registered mark in any judicial proceeding,
other than a proceeding described in subpara-
graph (B).

“(3) Bonding Requirements.—The Secretary
may impose bonding requirements on the owner of
the copyright or registered mark as a condition of
disclosure of information and the provision of samples under this subsection.

“(4) IMPLEMENTATION.—

“(A) REGULATIONS.—Not later than the 90th day after the date of the enactment of this section, the Secretary shall promulgate revised regulations to carry out this subsection. Until such time as the Secretary promulgates the revised regulations, and notwithstanding section 818(g)(2) of the National Defense Authorization Act of 2012 (10 U.S.C. 2302 note; Public Law 112–81), those regulations in effect on the date of the enactment of this section implementing section 818(g)(1) of the National Defense Authorization Act of 2012 shall be in effect, except to the extent such regulations limit the application of this subsection.

“(B) INFORMATION SHARING PROCESSES.—

“(i) FOR IMPORTERS.—

“(I) IN GENERAL.—The Secretary is authorized to establish a clearance process for those importers of record who wish to participate in the process to allow for or accelerate...
the release of merchandise from the

custody of the United States Customs

and Border Protection Agency without

the provision under paragraph (1),
prior to seizure of the merchandise, of

information, samples, images, or ma-
terial with respect to the merchandise.

“(II) LIMITATION ON SHARING

OF INFORMATION.—In the case of an

importer of record that participates in

the process under subclause (I), no in-
formation, samples, images, or mate-
rial described in subparagraph (A),
(B), or (C) of paragraph (1) of mer-
chandise of that importer may be pro-
vided, without redaction, to the owner
of a copyright or registered mark
prior to seizure of the merchandise.

“(ii) FOR OWNERS OF COPYRIGHTS

AND REGISTERED MARKS.—

“(I) IN GENERAL.—

“(aa) ESTABLISHMENT.—

The Secretary shall establish a
process or processes for those
owners of copyrights and owners
of registered marks that wish to participate in the process or processes, through which any sharing of information, samples, images, and material under paragraph (1) will be carried out before the notification to the importer of record referred to in paragraph (1) is made, subject to the limitation under subclause (II) of clause (i).

“(bb) INELIGIBILITY.—An owner of a copyright or a registered mark shall not be eligible to participate in a process described in item (aa) if that owner of a copyright or a registered mark has violated the prohibitions on disclosure under paragraph (2).

“(II) PROVISION OF SAMPLES AND INFORMATION TO CBP.—The Secretary is authorized to establish a process for those owners of copyrights and owners of registered marks that
wish to provide to the United States Customs and Border Protection Agency samples of, or information regarding, their copyrighted merchandise or merchandise that bears their registered marks (as the case may be), to assist the Secretary in determining whether merchandise presented for examination infringes the copyright or bears or consists of a counterfeit mark of the registered mark.

“(b) Merchandise in Violation of Anticircumvention Measures.—

“(1) Notification upon seizure.—

“(A) Notification of copyright owner.—Upon the seizure of merchandise by the Secretary for a violation of subsection (a) or (b) of section 1201 of title 17, United States Code, the Secretary shall notify the owner of a copyright who is included on the list established under paragraph (4) of the seizure of the merchandise that is capable of circumventing a technological measure of the copyright owner under either such subsection. The Secretary shall also provide to any such person additional
information upon request, which shall be equiv-
alent to information provided pursuant to sec-
tion 602(b) of title 17, United States Code, and
the regulations issued under that section.

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

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

“(ii) on hardware on which the use of
the seized merchandise is capable of cir-
cumventing a technological measure of a
copyright owner,
in either case in a manner that would result in
injury to the owner of a copyright under either
such subsection, if the owner of the registered
mark is included on the list established under
paragraph (4). The Secretary shall also provide
to any such person additional information upon
request, which shall be equivalent to informa-
tion provided pursuant to section 602(b) of title
17, United States Code, and the regulations
issued under that section.

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

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

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

“(i) the owner of a copyright whose
technological measure the merchandise is
capable of circumventing under subsection
(a) or (b) of section 1201 of title 17,
United States Code; and

“(ii) the owner of a registered mark—
“(I) on hardware that contains a technological measure that the seized merchandise is capable of circumventing, or

“(II) on hardware on which the use of the seized merchandise is capable of circumventing a technological measure of a copyright owner,

in either case in a manner that would result in injury to the owner of a copyright under either such subsection.

“(C) NONDISCLOSURE.—

“(i) IN GENERAL.—Any owner of a copyright or a registered mark to whom a sample is provided under subparagraph (A) before the merchandise is seized may not disclose it to any other person or use it for a purpose other than the purpose described in subparagraph (A) for such provision of samples.

“(ii) EXCEPTION.—Clause (i) does not apply in the case of a sample that is disclosed or used in a civil action for infringement of a copyright under title 17, United
States Code, or infringement of a registered mark under the Lanham Act.

“(iii) Use in judicial proceedings barred.—A sample provided under subparagraph (A), or information obtained from the provision of such a sample, may not be used by the owner of a copyright or registered mark in any judicial proceeding, other than a proceeding described in clause (ii).

“(D) Bonding requirements.—The Secretary may impose bonding requirements on the owner of the copyright or trademark as a condition of the provision of samples under this paragraph.

“(3) Post-seizure provision of samples.—

“(A) In general.—In the case of merchandise subject to seizure by the Secretary for a violation of subsection (a) or (b) of section 1201 of title 17, United States Code, the Secretary is authorized to provide a sample of the merchandise to any person described in subparagraph (B) if the merchandise has been seized for such a violation.
“(B) Recipients of samples.—Persons to whom provision of samples is authorized under subparagraph (A) are—

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

“(ii) the owner of a registered mark—

“(I) on hardware that contains a technological measure that the seized merchandise is capable of circumventing, or

“(II) on hardware on which the use of the seized merchandise is capable of circumventing a technological measure of a copyright owner,

in either case in a manner that would result in injury to the owner of a copyright under either such subsection, if the owner of the registered mark is included on the list established under paragraph (4). The Secretary shall also provide to any such
person additional information upon request, which shall be equivalent to information provided pursuant to section 602(b) of title 17, United States Code, and the regulations issued under that section.

“(C) BONDING REQUIREMENTS.—The Secretary may impose bonding requirements on the owner of the copyright or trademark as a condition of the provision of samples under this paragraph.

“(4) ELIGIBLE OWNERS OF COPYRIGHTS AND REGISTERED MARKS.—An owner of a copyright or a registered mark is eligible to receive notification under paragraph (1) or samples under paragraph (3) if such owner is included on a list that the Secretary is authorized to maintain and periodically revise, through a process of notice and comment, for purposes of paragraphs (1) and (3) of this subsection.

“(5) REGULATIONS.—Not later than the 90th day after the date of the enactment of this section, the Secretary shall promulgate regulations establishing procedures that implement this subsection.

“(c) NOTIFICATION OF PARTIES RESPONSIBLE FOR INITIATION OF SECTION 337 INVESTIGATIONS.—The Sec-
Secretary is authorized to notify the party or parties responsible for initiating an investigation under section 337 of this Act when merchandise is excluded under subsection (d) of that section, or merchandise is seized under subsection (i) of that section, pursuant to that investigation.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘counterfeit mark’ has the meaning given that term in section 2320(e) of title 18, United States Code.

“(2) The term ‘Lanham Act’ means the Act entitled ‘An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes’, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

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

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

“(5) The term ‘Secretary’ means the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection.
“(6) The term ‘work’ means a work within the meaning of title 17, United States Code.
“(7) The term ‘without redaction’ means without modification, deletion or omission.”.

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

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

SEC. 301. PREVENTION AND INVESTIGATION OF EVASION.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 516A (19 U.S.C. 1516a) the following:

“SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

“(a) DEFINITIONS.—In this section:
“(1) ADMINISTERING AUTHORITY.—The term ‘administering authority’ has the meaning given that term in section 771(1).
“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—
“(A) the Committee on Finance and the Committee on Appropriations of the Senate; and

“(B) the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives.

“(3) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of U.S. Customs and Border Protection Agency.

“(4) COVERED MERCHANDISE.—The term ‘covered merchandise’ means merchandise that is subject to—

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

“(B) an antidumping duty order issued under section 736 of the Tariff Act of 1930; or

“(C) a finding issued under the Anti-dumping Act, 1921.

“(5) ELIGIBLE SMALL BUSINESS.—

“(A) IN GENERAL.—The term ‘eligible small business’ means any business concern which, in the Commissioner’s judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified
outside assistance in preparing and submitting
for consideration allegations of evasion.

“(B) NON-REVIEWABILITY.—Any agency
decision regarding whether a business concern
is an eligible small business for purposes of sec-
tion 311(b)(3) is not reviewable by any other
agency or by any court.

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

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

“(8) INTERESTED PARTY.—The term ‘inter-
ested party’ has the meaning given the term in sec-
tion 771(9) (other than subparagraph (A) or (B) of
such section).
“(9) Secretary.—The term ‘Secretary’ means the Secretary of the Treasury.

“(10) Trade Remedy Laws.—The term ‘trade remedy laws’ means title VII of the Tariff Act of 1930.

“(b) Trade Remedy Law Enforcement Division.—

“(1) Establishment.—


“(B) Composition.—The Trade Law Remedy Enforcement Division shall be composed of—

“(i) headquarters personnel led by a Director, who shall report to the Assistant Commissioner of the Office of International Trade; and
“(ii) a National Targeting and Analysis Group dedicated to preventing and countering evasion.

“(C) DUTIES.—The Trade Remedy Law Enforcement Division shall be dedicated—

“(i) to the development and administration of policies to prevent and counter evasion;

“(ii) to direct enforcement and compliance assessment activities concerning evasion;

“(iii) to the development and conduct of commercial risk assessment targeting with respect to cargo destined for the United States in accordance with paragraph (3);

“(iv) to issuing Trade Alerts described in paragraph (4); and

“(v) to the development of policies for the application of single entry and continuous bonds for entries of covered merchandise to sufficiently protect the collection of antidumping and countervailing duties commensurate with the level of risk of non-collection.
“(2) DUTIES OF DIRECTOR.—The duties of the
Director of the Trade Remedy Law Enforcement Di-
vision shall include—

“(A) directing the trade enforcement and
compliance assessment activities of the U.S.
Customs and Border Protection Agency that
concern evasion;

“(B) facilitating, promoting, and coordi-
nating cooperation and the exchange of infor-
mation between the U.S. Customs and Border
Protection Agency, U.S. Immigration and Cus-
toms Enforcement, and other relevant agencies
regarding evasion;

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

“(D) serving as the primary liaison be-
tween the U.S. Customs and Border Protection
Agency and the public regarding United States
Government activities concerning evasion, including—

“(i) establish and administer the procedures described in subsection (c);

“(ii) upon request, provide technical assistance and advice to eligible small businesses to enable such businesses to prepare and submit allegations of evasion; and

“(iii) regularly consult with the public, the Commercial Customs Operations Advisory Committee, the Trade Support Network, and any other relevant parties and organizations regarding the development and implementation of regulations, interpretations, and policies related to countering evasion.

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

“(A) establish targeted risk assessment methodologies and standards—
“(i) for evaluating the risk that cargo destined for the United States may constitute evading covered merchandise; and

“(ii) for issuing, as appropriate, Trade Alerts described in paragraph (4); and

“(B) to the extent practicable and otherwise authorized by law, use information available from the Automated Commercial System, the Automated Commercial Environment computer system, the Automated Targeting System, the Automated Export System, the International Trade Data System, and the Treasury Enforcement Communications System, and any successor systems, to administer the methodologies and standards established under subparagraph (A).

“(4) TRADE ALERTS.—Based upon the application of the targeted risk assessment methodologies and standards established under paragraph (3), the Director of the Trade Remedy Law Enforcement Division shall issue Trade Alerts or other such means of notification to directors of United States ports of entry directing further inspection, or physical exam-
ination or testing, of specific merchandise to ensure compliance with the trade remedy laws.

“(5) SINGLE ENTRY BOND.—The Secretary of the Treasury shall require a single entry bond, in addition to any continuous bond, in any case in which the Secretary has a reasonable belief, based on evidence, that merchandise—

“(A) may be subject to an order issued under section 706 or section 736; and

“(B) is being entered into the United States by means of evasion.

The bond shall be set at an amount the Secretary determines sufficient to protect revenue and to ensure compliance with the law, regulations, and instructions that the Secretary is authorized to enforce.

“(c) PROCEDURES FOR INVESTIGATING ALLEGATIONS OF EVASION.—

“(1) INITIATION BY PETITION OR REFERRAL.—

“(A) IN GENERAL.—Not later than 10 days after the date on which the Commissioner receives a petition described in subparagraph (B) or a referral described in subparagraph (C), the Commissioner shall initiate an investigation pursuant to this paragraph.
'“(B) Petition described.—A petition described in this subparagraph is a petition that—

“(i) is filed with the Commissioner by any party who is an interested party with respect to covered merchandise;

“(ii) alleges that a person has entered covered merchandise into the customs territory of the United States through evasion; and

“(iii) is accompanied by information reasonably available to the petitioner supporting the allegation.

“(C) Referral described.—A referral described in this subparagraph is information submitted to the Commissioner by any other Federal agency, including the Department of Commerce or the United States International Trade Commission, indicating that a person has entered covered merchandise into the customs territory of the United States through evasion.

“(2) Determinations.—

“(A) Preliminary determination.—

“(i) In general.—Not later than 90 days after the date on which the Commis-
sioner initiates an investigation under paragraph (1), the Commissioner shall issue a preliminary determination, based on information available to the Commissioner at the time of the determination, with respect to whether there is a reasonable basis to believe or suspect that the covered merchandise was entered into the customs territory of the United States through evasion.

“(ii) EXTENSION.—The Commissioner may extend by not more than 45 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a preliminary determination under that clause is not available within that time period or the inquiry is unusually complex.

“(B) FINAL DETERMINATION.—

“(i) IN GENERAL.—Not later than 120 days after making a preliminary determination under subparagraph (A), the Commissioner shall make a final determination, based on substantial evidence, with respect to whether covered merchan-
dise was entered into the customs territory of the United States through evasion.

“(ii) Extension.—The Commissioner may extend by not more than 60 days the time period specified in clause (i) if the Commissioner determines that sufficient information to make a final determination under that clause is not available within that time period or the inquiry is unusually complex.

“(iii) Opportunity for comment; hearing.—After making a preliminary determination under subparagraph (A) and before issuing a final determination under this subparagraph with respect to whether covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

“(I) provide any person alleged to have entered the merchandise into the customs territory of the United States through evasion, and any person that is an interested party with respect to the merchandise, with an opportunity to be heard;
“(II) upon request, hold a hearing with respect to whether the covered merchandise was entered into the customs territory of the United States through evasion; and

“(III) provide an opportunity for public comment.

“(C) AUTHORITY TO COLLECT AND VERIFY ADDITIONAL INFORMATION.—In making a preliminary determination under subparagraph (A) or a final determination under subparagraph (B), the Commissioner—

“(i) shall exercise all existing authorities to collect information needed to make the determination; and

“(ii) may collect such additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by—

“(I) issuing a questionnaire with respect to covered merchandise to—

“(aa) a person that filed a petition under paragraph (1)(B);
“(bb) a person alleged to have entered covered merchandise into the customs territory of the United States through evasion; or

“(cc) any other person that is an interested party with respect to the covered merchandise; or

“(ii) conducting verifications, including on-site verifications, of any relevant information.

“(D) ADVERSE INFERENCE.—

“(i) IN GENERAL.—If the Commissioner finds that a person that filed a petition under paragraph (1)(B), a person alleged to have entered covered merchandise into the customs territory of the United States through evasion, or a foreign producer or exporter, has failed to cooperate by not acting to the best of the person’s ability to comply with a request for information, the Commissioner may, in making a preliminary determination under subparagraph (A) or a final determination
under subparagraph (B), use an inference
that is adverse to the interests of that per-
son in selecting from among the facts oth-
ewise available to determine whether eva-
sion has occurred.

“(ii) ADVERSE INFERENCE DE-
scribed.—An adverse inference used
under clause (i) may include reliance on in-
formation derived from—

“(I) the petition, if any, sub-
mitted under paragraph (1)(B) with
respect to the covered merchandise;

“(II) a determination by the
Commissioner in another investigation
under this section;

“(III) an investigation or review
by the administering authority under
title VII; or

“(IV) any other information
placed on the record.

“(E) NOTIFICATION AND PUBLICATION.—
Not later than 7 days after making a prelimi-
nary determination under subparagraph (A) or
a final determination under subparagraph (B),
the Commissioner shall—
“(i) provide notification of the determination to—

“(I) the administering authority;

and

“(II) the person that submitted the petition under paragraph (1)(B) or the Federal agency that submitted the referral under paragraph (1)(C); and

“(ii) provide the determination for publication in the Federal Register.

“(3) BUSINESS PROPRIETARY INFORMATION.—

“(A) ESTABLISHMENT OF PROCEDURES.—For each investigation initiated under paragraph (1), the Commissioner shall establish procedures for the submission of business proprietary information under an administrative protective order that—

“(i) protects against public disclosure of such information; and

“(ii) for purposes of submitting comments to the Commissioner, provides limited access to such information for—

“(I) the person that submitted the petition under paragraph (1)(B)
or the Federal agency that submitted
the referral under paragraph (1)(C);
and
“(II) the person alleged to have
entered covered merchandise into the
customs territory of the United States
through evasion.

“(B) Administration in accordance
with other procedures.—The procedures
established under subparagraph (A) shall be ad-
ministered, to the maximum extent practicable,
in accordance with administrative protective
order procedures under section 777 by the ad-
ministering authority.

“(C) Disclosure of business propri-
etary information.—The Commissioner
shall, in accordance with the procedures estab-
lished under subparagraph (A), make all busi-
ess proprietary information presented to, or
obtained by, the Commissioner during an invest-
tigation available to the persons specified in
subparagraph (A)(ii) under an administrative
protective order, regardless of when such infor-
mation is submitted during an investigation.
‘‘(4) Referrals to other Federal agencies.—

‘‘(A) After preliminary determination.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative preliminary determination under paragraph (2)(A), the Commissioner shall, at the request of the head of another Federal agency, transmit the administrative record to the head of that agency.

‘‘(B) After final determination.—Notwithstanding section 777 and subject to subparagraph (C), when the Commissioner makes an affirmative final determination under paragraph (2)(B), the Commissioner shall, at the request of the head of another Federal agency, transmit the complete administrative record to the head of that agency.

‘‘(C) Protective orders.—Before transmitting an administrative record to the head of another Federal agency under subparagraph (A) or (B), the Commissioner shall verify that the other agency has in effect with respect to the administrative record a protective order that provides the same or a similar level of pro-
tection for the information in the administrative
record as the protective order in effect with re-
spect to such information under this subsection.

“(d) Effect of Determinations.—

“(1) Effect of Affirmative Preliminary
Determination.—If the Commissioner makes a
preliminary determination in accordance with sub-
section (c)(2)(A) that there is a reasonable basis to
believe or suspect that covered merchandise was en-
tered into the customs territory of the United States
through evasion, the Commissioner shall—

“(A) suspend the liquidation of each unliq-
uidated entry of the covered merchandise that
is subject to the preliminary determination and
that entered on or after the date of the initi-
atation of the investigation under paragraph (1)
and, pursuant to the Commissioner’s authority
under section 504(b), extend liquidation of each
unliquidated entry of the covered merchandise
that is subject to the preliminary determination
and that entered prior to the date of the initi-
atation of the investigation under paragraph (1);

“(B) review and reassess the amount of
bond or other security the importer is required
to post for each entry of merchandise described in subparagraph (A);

“(C) require the posting of a cash deposit with respect to each entry of merchandise described in subparagraph (A); and

“(D) take such other measures as the Commissioner determines appropriate to ensure the collection of any duties that may be owed with respect to merchandise described in subparagraph (A) as a result of a final determination under subsection (c)(2)(B).

“(2) Effect of negative preliminary determination.—If the Commissioner makes a preliminary determination in accordance with subsection (c)(2)(A) that there is not a reasonable basis to believe or suspect that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall continue the investigation and notify the administering authority pending a final determination under subsection (c)(2)(B).

“(3) Effect of affirmative final determination.—If the Commissioner makes a final determination in accordance with subsection (c)(2)(B) that covered merchandise was entered into the cus-
the Commissioner shall—

“(A) suspend or continue to suspend, as the case may be, the liquidation of each entry of the covered merchandise that is subject to the determination and that enters on or after the date of the determination and, pursuant to the Commissioner’s authority under section 504(b), extend or continue to extend, as the case may be, the liquidation of each entry of the covered merchandise that is subject to the determination and that entered prior to the date of the determination;

“(B) notify the administering authority of the determination and request that the administering authority—

“(i) identify the applicable antidumping or countervailing duty assessment rate for the entries for which liquidation is suspended under paragraph (1)(A) or subparagraph (A) of this paragraph; or

“(ii) if no such assessment rates are available at the time, identify the applicable cash deposit rate to be applied to the entries described in subparagraph (A),
with the applicable antidumping or coun-
tervailing duty assessment rates to be pro-
vided as soon as such rates become avail-
able;

“(C) require the posting of cash deposits
and assess duties on each entry of merchandise
described in subparagraph (A) in accordance
with the instructions received from the admin-
istering authority under paragraph (5);

“(D) review and reassess the amount of
bond or other security the importer is required
to post for merchandise described in subpara-
graph (A) to ensure the protection of revenue
and compliance with the law; and

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

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

“(ii) implementing, in consultation
with the relevant Federal agencies, rule
sets or modifications to rules sets for iden-
tifying, particularly through the Auto-
mated Targeting System and the Auto-
mated Commercial Environment, import-
ers, other parties, and merchandise that may be associated with evasion;

“(iii) requiring, with respect to merchandise for which the importer has repeatedly provided incomplete or erroneous entry summary information in connection with determinations of evasion, the importer to submit entry summary documentation and to deposit estimated duties at the time of entry;

“(iv) referring the record in whole or in part to U.S. Immigration and Customs Enforcement for civil or criminal investigation; and

“(v) transmitting the administrative record to the administering authority for further appropriate proceedings.

“(4) Effect of Negative Final Determination.—If the Commissioner makes a final determination in accordance with subsection (e)(2)(B) that covered merchandise was not entered into the customs territory of the United States through evasion, the Commissioner shall terminate the suspension of liquidation pursuant to paragraph (1)(A) and refund any cash deposits collected pursuant to para-
graph (1)(C) that are in excess of the cash deposit rate that would otherwise have been applicable the merchandise.

“(5) Cooperation of administering authority.—

“(A) In general.—Upon receiving a notification from the Commissioner under paragraph (3)(B), the administering authority shall promptly provide to the Commissioner the applicable cash deposit rates and antidumping or countervailing duty assessment rates and any necessary liquidation instructions.

“(B) Special rule for cases in which the producer or exporter is unknown.—If the Commissioner and administering authority are unable to determine the producer or exporter of the merchandise with respect to which a notification is made under paragraph (3)(B), the administering authority shall identify, as the applicable cash deposit rate or antidumping or countervailing duty assessment rate, the cash deposit or duty (as the case may be) in the highest amount applicable to any producer or exporter, including the ‘all-others’ rate of the merchandise subject to an antidumping order or
countervailing duty order under section 736 or 706, respectively, or a finding issued under the Antidumping Act, 1921, or any administrative review conducted under section 751.

“(e) SPECIAL RULES.—

“(1) EFFECT ON OTHER AUTHORITIES.—Neither the initiation of an investigation under subsection (c)(1) nor a preliminary determination or a final determination under subsection (c)(2) shall affect the authority of the Commissioner—

“(A) to pursue such other enforcement measures with respect to the evasion of antidumping or countervailing duties as the Commissioner determines necessary, including enforcement measures described in clauses (i) through (iv) of subsection (d)(3)(E); or

“(B) to assess any penalties or collect any applicable duties, taxes, and fees, including pursuant to section 592.

“(2) EFFECT OF DETERMINATIONS ON FRAUD ACTIONS.—Neither a preliminary determination nor a final determination under subsection (c)(2) shall be determinative in a proceeding under section 592.

“(3) NEGLIGENCE OR INTENT.—The Commissioner shall investigate and make a preliminary de-
termination or a final determination under this sec-
tion with respect to whether a person has entered
covered merchandise into the customs territory of
the United States through evasion without regard to
whether the person—

“(A) intended to violate an antidumping
duty order or countervailing duty order under
section 736 or 706, respectively, or a finding
issued under the Antidumping Act, 1921; or

“(B) exercised reasonable care with respect
to avoiding a violation of such an order or find-
ing.”.

(b) TECHNICAL AMENDMENT.—Clause (ii) of section
777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C.
1677f(b)(1)(A)) is amended to read as follows:

“(ii) to an officer or employee of U.S.
Customs and Border Protection Agency
who is directly involved in conducting an
investigation regarding fraud under this
title or claims of evasion under section
516B.”.

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

(1) in subparagraph (A)—
(A) in clause (i)(III), by striking “or” at the end;

(B) in clause (ii), by adding “or” at the end; and

(C) by inserting after clause (ii) the following:

“(iii) the date of publication in the Federal Register of a determination described in clause (ix) of subparagraph (B),”; and

(2) in subparagraph (B), by adding at the end the following new clause:

“(ix) A determination by the Commissioner responsible for U.S. Customs and Border Protection under section 516B that merchandise has been entered into the customs territory of the United States through evasion.”.

(d) FINALITY OF DETERMINATIONS.—Section 514(b) of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by striking “section 303” and all that follows through “which are reviewable” and inserting “section 516B or title VII that are reviewable”.
SEC. 302. APPLICATION TO CANADA AND MEXICO.

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

Subtitle B—Other Matters

SEC. 311. DEFINITIONS.

In this subtitle, the terms “appropriate congressional committees”, “Commissioner”, “covered merchandise”, “enter” and “entry”, and “evade” and “evasion” have the meanings given those terms in section 516B(a) of the Tariff Act of 1930 (as added by section 301(a) of this Act).

SEC. 312. ALLOCATION AND TRAINING OF PERSONNEL.

(a) REASSIGNMENT AND ALLOCATION.—The Commissioner shall, to the maximum extent possible, ensure that the U.S. Customs and Border Protection Agency—

(1) employs sufficient personnel who have expertise in, and responsibility for, preventing and investigating the entry of covered merchandise into the customs territory of the United States through evasion;

(2) on the basis of risk assessment metrics, assigns sufficient personnel with primary responsibility for preventing the entry of covered merchandise into the customs territory of the United States through
evasion to the ports of entry in the United States at which the Commissioner determines potential evasion presents the most substantial threats to the revenue of the United States; and

(3) provides adequate training to relevant personnel to increase expertise and effectiveness in the prevention and investigation of entries of covered merchandise into the customs territory of the United States through evasion.

(b) COMMERCIAL ENFORCEMENT OFFICERS.—Not later than 30 days after the enactment of this Act, the Secretary of Homeland Security, the Commissioner, and the Assistant Secretary for U.S. Immigration and Customs Enforcement shall assess and properly allocate the resources of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement—

(1) to effectively implement the provisions of, and amendments made by, this Act; and

(2) to improve efforts to investigate and combat evasion.

SEC. 313. REGULATIONS.

(a) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Commissioner shall
issue regulations to carry out this title and the amendments made by this title.

(b) Cooperation Between U.S. Customs and Border Protection Agency, U.S. Immigration and Customs Enforcement, and Department of Commerce.—Not later than 240 days after the date of the enactment of this Act, the Commissioner, the Assistant Secretary for U.S. Immigration and Customs Enforcement, and the Secretary of Commerce shall establish procedures to ensure maximum cooperation and communication between the U.S. Customs and Border Protection Agency, U.S. Immigration and Customs Enforcement, and the Department of Commerce in order to quickly, efficiently, and accurately investigate allegations of evasion under section 516B of the Tariff Act of 1930 (as added by section 301(a) of this Act).

SEC. 314. ANNUAL REPORT ON PREVENTION OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) In General.—Not later than February 28 of each year, beginning in 2013, the Commissioner, in consultation with the Secretary of Commerce and the Assistant Secretary for U.S. Immigration and Customs Enforcement, shall submit to the appropriate congressional com-
mittees a report on the efforts being taken to prevent and investigate evasion.

(b) CONTENTS.—Each report required under subsection (a) shall include—

(1) for the calendar year preceding the submission of the report—

(A) a summary of the efforts of the U.S. Customs and Border Protection Agency to prevent and investigate evasion;

(B) the number of allegations of evasion received and the number of allegations of evasion resulting in investigations by the U.S. Customs and Border Protection Agency or any other agency;

(C) a summary of the completed investigations of evasion, including the number and nature of the investigations initiated, conducted, or completed, as well as their resolution;

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

(E) the amounts of antidumping and countervailing duties collected as a result of any investigations or other actions by the U.S. Cus-
toms and Border Protection Agency or any other agency;

(F) a description of the allocation of personnel and other resources of the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement to prevent and investigation evasion, including any assessments conducted regarding the allocation of such personnel and resources; and

(G) a description of training conducted to increase expertise and effectiveness in the prevention and investigation of evasion; and

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

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

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

(C) identification of any changes since the last report that have materially improved or reduced the effectiveness of the U.S. Customs
and Border Protection Agency to prevent and investigate evasion;

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

(E) the processes and procedures for increased cooperation and information sharing with the Department of Commerce, U.S. Immigration and Customs Enforcement, and any other relevant Federal agencies to prevent and investigate evasion; and

(F) identification of any recommended policy changes of other Federal agencies or legislative changes to improve the effectiveness of the U.S. Customs and Border Protection Agency to prevent and investigate evasion.

SEC. 315. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON RELIQUIDATION AUTHORITY.

Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional com-
mittees, and make available to the public, a report esti-
mating the amount of duties that could not be collected
on covered merchandise that entered the customs territory
of the United States through evasion during fiscal years
2011 and 2012 because the Commissioner did not have
the authority to reliquidate the entries of such merchan-
dise.

SEC. 316. ADDRESSING CIRCUMVENTION BY NEW SHIP-
PERS.

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

(1) by striking clause (iii);

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

and

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

“(iv) Any weighted average dumping
margin or individual countervailing duty
rate determined for an exporter or pro-
ducer in a review conducted under clause
(i) shall be based solely on the bona fide
United States sales of an exporter or pro-
ducer, as the case may be, made during
the period covered by the review. In deter-
mining whether the United States sales of
an exporter or producer made during the
period covered by the review were bona
fide, the administering authority shall con-
sider, depending on the circumstances sur-
rounding such sales—

“(I) the prices of such sales;

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

“(III) the timing of such sales;

“(IV) the expenses arising from
such sales;

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

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

“(VII) any other factor the ad-
ministering authority determines to be
relevant as to whether such sales are,
or are not, likely to be typical of those
the exporter or producer will make
after completion of the review.”.
TITLE IV—MISCELLANEOUS
PROVISIONS

SEC. 401. PENALTIES FOR CUSTOMS BROKERS.

(a) In General.—Section 641(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1641(d)(1)) is amended—

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

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

(3) by adding at the end the following:

“(G) has been convicted of committing or conspiring to commit an act of terrorism described in section 2332b of title 18, United States Code.”.

(b) Technical Amendments.—Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended—

(1) in subsection (g)(2)(B), by striking “Secretary’s notice” and inserting “notice under subparagraph (A)”; and

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

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SEC. 402. DE MINIMIS VALUE AND ENTRY UNDER REGULATIONS.

(a) De Minimis Value.—Section 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is amended by striking “$200” and inserting “$800”.

(b) Entry Under Regulations.—Section 498 of the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

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

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

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

“(b) Entry of Merchandise Valued at $2,500 or Less.—The Secretary of the Treasury shall prescribe rules and regulations for the declaration and entry of merchandise if the aggregate value of the shipment of merchandise does not exceed $2,500.”.

(c) Effective Date.—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after the 90th day after the date of the enactment of this Act.
SEC. 403. COLLECTION AND REMITTANCE OF CERTAIN CUS-
TOMS USER FEES.

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

(1) in the subsection heading, by inserting

“AND REMITTANCE” after “COLLECTION”;

(2) in paragraph (3)—

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

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

(3) by adding at the end the following:

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

“(6)(A) A person who collects fees under para-
graph (1) or (2) and does not remit those fees to the
Secretary of the Treasury as required by paragraph
(3) shall be subject to a penalty in accordance with
the requirements of this paragraph.
“(B) The amount of such penalty shall be equal to 2 times the amount of the fee that was required to be remitted to the Secretary of the Treasury. The Secretary of the Treasury may establish and impose additional penalties through rulemaking for failure to comply with any provision of this subsection.

“(C) Any penalty collected under this paragraph shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs described in subsection (f)(3)(A).”.

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

SEC. 404. DRAWBACK AND REFUNDS.

(a) ARTICLES MADE FROM IMPORTED MERCHANDISE.—Section 313(a) of the Tariff Act of 1930 (19 U.S.C. 1313(a)) is amended—

(1) by striking “under customs supervision”; and
(2) by inserting “as calculated under subsection (r)(4)(A),” after “less 1 per centum of such duties,”.

(b) SUBSTITUTION FOR DRAWBACK PURPOSES.—

Section 313(b) of the Tariff Act of 1930 (19 U.S.C. 1313(b)) is amended—

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

“(1) IN GENERAL.—If imported”;

(2) by striking “and any other merchandise (whether imported or domestic) of the same kind and quality” and inserting “and substitute merchandise”;

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

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

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

(6) by inserting after “merchandise used therein been imported,” the following: “as calculated under subsection (r)(4)(A),”;

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(7) by striking the period at the end and inserting “, as calculated under subsection (r)(4)(A).”; and

(8) by adding at the end the following:

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

“(A) MANUFACTURERS AND PRODUCERS.—Drawback may be allowed under paragraph (1) in the amount referred to under paragraph (1) only if the manufacturer or producer of articles has received the imported, duty-paid merchandise or substitute merchandise, directly or indirectly, of imported duty-paid merchandise or substitute merchandise.

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

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

(c) Merchandise Not Conforming to Sample or Specifications.—Section 313(c) of the Tariff Act of
1930 (19 U.S.C. 1313(c)) is amended—

(1) in paragraph (1)—

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

(B) in subparagraph (D)—

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

and

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

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

(2) in paragraph (2)—

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

(B) by striking the last sentence and in-
serting the following: “Transfers of merchan-
dise may be evidenced by business records kept
in the normal course of business and no addi-
tional certificates of transfer shall be re-
quired.”.

(d) Proof of Exportation.—Section 313(i) of the
Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read
as follows:

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

(e) Unused Merchandise Drawback.—Section
313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is
amended—

(1) in paragraph (1)(A)—

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

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

(2) in paragraph (2)—

(A) in subparagraph (B)—
(i) by striking “3-year” and inserting “5-year”; 

(ii) by inserting “and before filing the drawback claim” after “the imported merchandise”; and 

(iii) by striking “under customs supervision”; 

(B) in subparagraph (C)(ii)(II)—

(i) by inserting “, directly or indirectly,” after “received”; and 

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

(C) in the text immediately following subparagraph (C)—

(i) by inserting “, as calculated under subsection (r)(4),” after “under this subsection”; and 

(ii) by adding at the end the following: “Merchandise shall be considered to be received directly or indirectly from a person who imported and paid any duty, tax, or fee due on the imported merchandise if the recipient received any imported merchandise, any other merchandise (whether imported or domestic), or any
combination of imported merchandise and
such other merchandise, from the importer
through a transfer directly to the recipient,
or a transfer from the importer through
one or more intermediate transfers involv-
ing one or more parties of any combination
of imported merchandise or such other
merchandise. Transfers of merchandise
may be evidenced by business records kept
in the normal course of business and no
additional certificates of transfer shall be
required.”.

(f) Certificate of Delivery.—Section 313 of the
Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-
ing subsection (k).

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

(h) Substitution of Finished Petroleum De-
rivatives.—Section 313(p) of the Tariff Act of 1930 (19
U.S.C. 1313(p)) is amended—
(1) by striking “Harmonized Tariff Schedule of the United States” each place it appears and inserting “HTS”; and

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

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

(j) Filing and Calculation of Drawback Claims.—Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended—

(1) in the heading, by inserting “AND CALCULATION OF” after “FILING”; 

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following: “A drawback entry shall be filed or applied for, as applicable, not later than 5 years after the date on which merchandise on which drawback is claimed was imported. If merchandise summarized on an entry summary line item with respect to which drawback is claimed was imported on more than one date, the earliest date of importation of the
merchandise contained on that entry summary line item shall be used for purposes of this paragraph.”;

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

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

(3) in paragraph (3)(A)—

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

(B) in clauses (i) and (ii), by striking “the Customs Service” each place it appears and inserting “U.S. Customs and Border Protection”; and

(4) by adding at the end the following:

“(4) The amount used for purposes of determining a drawback entry for refund filed under subsection (a), (b), or (c) shall equal the amount determined by multiplying—

“(A) the amount determined by dividing—

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

“(B) the number of units of imported merchandise claimed for drawback.”.

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

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

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

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

“(2) **HTS.**—The term ‘HTS’ means the Harmonized Tariff Schedule of the United States.

“(3) **INDIRECTLY.**—The term ‘indirectly’ means a transfer of merchandise or an article from 1 person to another person with 1 or more intermediate transfers.

“(4) **SCHEDULE B.**—The term ‘Schedule B’ means the Department of Commerce Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States.
“(5) Substitute merchandise; substitute article.—The terms ‘substitute merchandise’ and ‘substitute article’ mean—

“(A) a good that is classifiable within the same 8-digit HTS subheading number as another good (the Schedule B number may be used to demonstrate this fact) whether imported or domestic; or

“(B) a good demonstrated to have been classifiable within the same 8-digit HTS subheading number as another good at some point during the 5-year period beginning on the date of importation of the designated imported merchandise (the Schedule B number may be used to demonstrate this fact) whether imported or domestic.”.

(m) Effective Date.—

(1) In general.—The amendments made by this section shall—

(A) take effect on the date of the enactment of this Act; and

(B) except as provided in paragraph (2), apply to drawback claims filed with respect to merchandise that enters the United States on or after such date of enactment.
(2) Transition Rule.—During the 2-year period beginning on the date described in paragraph (1)(A), a person may elect to file a claim for drawback under—

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

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

(n) Government Accountability Office Report.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(1) a description of the implementation of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313), as amended by this section;

(2) an evaluation of the modernization of drawback and refunds under subsection (b) of section 313 of such Act (relating to substitution for drawback purposes), as amended by this section;

(3) an evaluation of extending the modernization of drawback and refunds to subsection (j) of
section 313 of such Act (relating to unused merchandise drawback), as amended by this section; and

(4) recommendations for the processing of drawback claims under the Automated Commercial Environment computer system authorized under section 13031(f)(5) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(5)).

SEC. 405. AMENDMENTS TO CHAPTER 98 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) Articles Exported and Returned, Advanced or Improved Abroad.—

(1) In General.—U.S. Note 3 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by adding at the end the following:

“(f)(i) For purposes of subheadings 9802.00.40 and 9802.00.50, fungible goods exported from the United States for the purposes described in such subheadings—

“(A) may be commingled; and

“(B) the origin, value, and classification of such goods may be accounted for using an inventory management method.
“(ii) If a person chooses to use an inventory management method under this paragraph with respect to fungible goods, the person shall use the same inventory management method for any other goods with respect to which the person claims fungibility under this paragraph.

“(iii) For the purposes of this paragraph—

“(A) the term ‘fungible good’ means any good that is commercially interchangeable with another good and that has properties that are essentially identical to the properties of another good; and

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

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

(b) MODIFICATION OF PROVISIONS RELATING TO RETURNED PROPERTY.—
(1) In general.—The article description for heading 9801.00.10 of the Harmonized Tariff Schedule of the United States is amended by inserting after "exported" the following: "or any other products when returned within 3 years after having been exported".

(2) Effective date.—The amendment made by paragraph (1) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

c) Duty Free Treatment for Certain United States Government Property Returned to the United States.—

(1) In general.—Subchapter I of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

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9801.00.11 United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property Free
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(2) Effective date.—The amendment made by paragraph (1) applies to goods entered, or with-
drawn from warehouse for consumption, on or after
the 15th day after the date of the enactment of this
Act.

TITLE V—OTHER TRADE
AGENCIES

SEC. 501. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) Fiscal Year 2013.—There are authorized to be
appropriated for the salaries and expenses of the United
States International Trade Commission not to exceed
$82,800,000 for fiscal year 2013.

(b) Fiscal Years 2014 and 2015.—Section
1330(e)(2)(A)) is amended by striking clauses (i) and (ii)
and inserting the following:

“(i) $86,800,000 for fiscal year 2014.
“(ii) $88,900,000 for fiscal year
2015.”.

SEC. 502. OFFICE OF THE UNITED STATES TRADE REP-
RESENTATIVE.

(a) Fiscal Year 2013.—There are authorized to be
appropriated for the salaries and expenses of the Office
of the United States Trade Representative not less than
$54,500,000, including for additional resources to
strengthen the monitoring and enforcement of existing United States trade agreements.

(b) Sense of Congress on Interagency Trade Enforcement Center.—It is the sense of Congress that—

(1) robust monitoring and enforcement of United States rights under international trade agreements, and enforcement of domestic trade laws, are crucial to expanding exports and ensuring United States workers, businesses, ranchers, and farmers are able to compete on a level playing field with foreign trade partners;

(2) to strengthen monitoring and enforcement, executive departments and agencies must coordinate and augment their efforts to identify and reduce or eliminate foreign trade barriers and unfair foreign trade practices; and

(3) an Interagency Trade Enforcement Center, as established by Executive Order 13601 of February 28, 2012, has the potential to strengthen the monitoring and enforcement of United States rights under international trade agreements and the enforcement of domestic trade laws.