

In the House of Representatives, U. S.,

June 12, 2015.

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 644) entitled “An Act to amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable deduction for contributions of food inventory.” and be it further

Resolved, That the House agree to the amendment of the Senate to the text of the aforementioned bill, with the following

HOUSE AMENDMENT TO SENATE AMENDMENT:

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

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—TRADE FACILITATION AND TRADE ENFORCEMENT

Sec. 101. Improving partnership programs.

Sec. 102. Report on effectiveness of trade enforcement activities.

Sec. 103. Priorities and performance standards for customs modernization, trade facilitation, and trade enforcement functions and programs.

Sec. 104. Educational seminars to improve efforts to classify and appraise imported articles, to improve trade enforcement efforts, and to otherwise facilitate legitimate international trade.

- Sec. 105. Joint strategic plan.*
- Sec. 106. Automated Commercial Environment.*
- Sec. 107. International Trade Data System.*
- Sec. 108. Consultations with respect to mutual recognition arrangements.*
- Sec. 109. Commercial Customs Operations Advisory Committee.*
- Sec. 110. Centers of Excellence and Expertise.*
- Sec. 111. Commercial risk assessment targeting and trade alerts.*
- Sec. 112. Report on oversight of revenue protection and enforcement measures.*
- Sec. 113. Report on security and revenue measures with respect to merchandise transported in bond.*
- Sec. 114. Importer of record program.*
- Sec. 115. Establishment of new importer program.*
- Sec. 116. Customs broker identification of importers.*
- Sec. 117. Requirements applicable to non-resident importers.*
- Sec. 118. Priority trade issues.*
- Sec. 119. Appropriate congressional committees defined.*

TITLE II—IMPORT HEALTH AND SAFETY

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

TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

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

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

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

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

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

Subtitle B—Investigation of Evasion of Trade Remedy Laws

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

Subtitle C—Other Matters

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

TITLE V—IMPROVEMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAWS

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

TITLE VI—ADDITIONAL ENFORCEMENT PROVISIONS

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

TITLE VII—CURRENCY MANIPULATION

- Sec. 701. Enhancement of engagement on currency exchange rate and economic policies with certain major trading partners of the United States.*
Sec. 702. Advisory committee on international exchange rate policy.

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

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

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. De minimis value.*
Sec. 902. Consultation on trade and customs revenue functions.
Sec. 903. Penalties for customs brokers.
Sec. 904. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
Sec. 905. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.
Sec. 906. Drawback and refunds.
Sec. 907. Office of the United States Trade Representative.

Sec. 908. United States-Israel Trade and Commercial Enhancement.

Sec. 909. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.

Sec. 910. Customs user fees.

Sec. 911. Report on certain U.S. Customs and Border Protection agreements.

Sec. 912. Amendments to Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

Sec. 913. Certain interest to be included in distributions under Continued Dumping and Subsidy Offset Act of 2000.

Sec. 914. Report on competitiveness of U.S. recreational performance outerwear industry.

Sec. 915. Increase in penalty for failure to file return of tax.

1 **SEC. 2. DEFINITIONS.**

2 *In this Act:*

3 (1) *AUTOMATED COMMERCIAL ENVIRONMENT.*—

4 *The term “Automated Commercial Environment”*
 5 *means the Automated Commercial Environment com-*
 6 *puter system authorized under section 13031(f)(4) of*
 7 *the Consolidated Omnibus Budget Reconciliation Act*
 8 *of 1985 (19 U.S.C. 58c(f)(4)).*

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

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

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

1 (B) *Section 249 of the Revised Statutes (19*
2 *U.S.C. 3).*

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

5 (D) *The Act of March 3, 1927 (44 Stat.*
6 *1381, chapter 348; 19 U.S.C. 2071 et seq.).*

7 (E) *Section 13031 of the Consolidated Om-*
8 *nibus Budget Reconciliation Act of 1985 (19*
9 *U.S.C. 58c).*

10 (F) *Section 251 of the Revised Statutes (19*
11 *U.S.C. 66).*

12 (G) *Section 1 of the Act of June 26, 1930*
13 *(46 Stat. 817, chapter 617; 19 U.S.C. 68).*

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

16 (I) *Section 1 of the Act of March 2, 1911*
17 *(36 Stat. 965, chapter 191; 19 U.S.C. 198).*

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

20 (K) *The Trade Agreements Act of 1979 (19*
21 *U.S.C. 2501 et seq.).*

22 (L) *The North American Free Trade Agree-*
23 *ment Implementation Act (19 U.S.C. 3301 et*
24 *seq.).*

1 (M) *The Uruguay Round Agreements Act*
2 (19 U.S.C. 3501 et seq.).

3 (N) *The Caribbean Basin Economic Recov-*
4 *ery Act* (19 U.S.C. 2701 et seq.).

5 (O) *The Andean Trade Preference Act* (19
6 U.S.C. 3201 et seq.).

7 (P) *The African Growth and Opportunity*
8 *Act* (19 U.S.C. 3701 et seq.).

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

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

13 (S) *The Customs Procedural Reform and*
14 *Simplification Act of 1978* (Public Law 95–410;
15 92 Stat. 888).

16 (T) *The Trade Act of 2002* (Public Law
17 107–210; 116 Stat. 933).

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

20 (V) *The Act of March 28, 1928* (45 Stat.
21 374, chapter 266; 19 U.S.C. 2077 et seq.).

22 (W) *The Act of August 7, 1939* (53 Stat.
23 1263, chapter 566).

24 (X) *Any other provision of law imple-*
25 *menting a trade agreement.*

1 (Y) *Any other provision of law vesting cus-*
2 *oms revenue functions in the Secretary of the*
3 *Treasury.*

4 (Z) *Any other provision of law relating to*
5 *trade facilitation or trade enforcement that is*
6 *administered by U.S. Customs and Border Pro-*
7 *tection on behalf of any Federal agency that is*
8 *required to participate in the International*
9 *Trade Data System.*

10 (AA) *Any other provision of customs or*
11 *trade law administered by U.S. Customs and*
12 *Border Protection or U.S. Immigration and Cus-*
13 *oms Enforcement.*

14 (4) *PRIVATE SECTOR ENTITY.*—*The term “pri-*
15 *vate sector entity” means—*

16 (A) *an importer;*

17 (B) *an exporter;*

18 (C) *a forwarder;*

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

20 (E) *a contract logistics provider;*

21 (F) *a customs broker; or*

22 (G) *any other person (other than an em-*
23 *ployee of a government) affected by the imple-*
24 *mentation of the customs and trade laws of the*
25 *United States.*

1 (5) *TRADE ENFORCEMENT.*—The term “trade en-
2 forcement” means the enforcement of the customs and
3 trade laws of the United States.

4 (6) *TRADE FACILITATION.*—The term “trade fa-
5 cilitation” refers to policies and activities of U.S.
6 Customs and Border Protection with respect to facili-
7 tating the movement of merchandise into and out of
8 the United States in a manner that complies with the
9 customs and trade laws of the United States.

10 **TITLE I—TRADE FACILITATION**
11 **AND TRADE ENFORCEMENT**

12 **SEC. 101. IMPROVING PARTNERSHIP PROGRAMS.**

13 (a) *IN GENERAL.*—In order to advance the security,
14 trade enforcement, and trade facilitation missions of U.S.
15 Customs and Border Protection, the Commissioner shall en-
16 sure that partnership programs of U.S. Customs and Bor-
17 der Protection established before the date of the enactment
18 of this Act, such as the Customs–Trade Partnership Against
19 Terrorism established under subtitle B of title II of the Se-
20 curity and Accountability for Every Port Act of 2006 (6
21 U.S.C. 961 et seq.), and partnership programs of U.S. Cus-
22 toms and Border Protection established on or after such
23 date of enactment, provide trade benefits to private sector
24 entities that meet the requirements for participation in

1 *those programs established by the Commissioner under this*
2 *section.*

3 (b) *ELEMENTS.*—*In developing and operating partner-*
4 *ship programs under subsection (a), the Commissioner*
5 *shall—*

6 (1) *consult with private sector entities, the pub-*
7 *lic, and other Federal agencies when appropriate, to*
8 *ensure that participants in those programs receive*
9 *commercially significant and measurable trade bene-*
10 *fits, including providing pre-clearance of merchandise*
11 *for qualified persons that demonstrate the highest lev-*
12 *els of compliance with the customs and trade laws of*
13 *the United States, regulations of U.S. Customs and*
14 *Border Protection, and other requirements the Com-*
15 *missioner determines to be necessary;*

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

20 (3) *consider consolidating partnership programs*
21 *in situations in which doing so would support the ob-*
22 *jectives of such programs, increase participation in*
23 *such programs, enhance the trade benefits provided to*
24 *participants in such programs, and enhance the allo-*

1 *cation of the resources of U.S. Customs and Border*
2 *Protection;*

3 *(4) coordinate with the Director of U.S. Immig-*
4 *ration and Customs Enforcement, and other Federal*
5 *agencies with authority to detain and release mer-*
6 *chandise entering the United States—*

7 *(A) to ensure coordination in the release of*
8 *such merchandise through the Automated Com-*
9 *mmercial Environment, or its predecessor, and the*
10 *International Trade Data System;*

11 *(B) to ensure that the partnership programs*
12 *of those agencies are compatible with the part-*
13 *nership programs of U.S. Customs and Border*
14 *Protection;*

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

20 *(D) to create pathways, within and among*
21 *the appropriate Federal agencies, for qualified*
22 *persons that demonstrate the highest levels of*
23 *compliance with the customs and trade laws of*
24 *the United States to receive immediate clearance*

1 *absent information that a transaction may pose*
2 *a national security or compliance threat; and*
3 (5) *ensure that trade benefits are provided to*
4 *participants in partnership programs.*

5 (c) *REPORT REQUIRED.—Not later than the date that*
6 *is 180 days after the date of the enactment of this Act, and*
7 *not later than December 31 of each calendar year thereafter,*
8 *the Commissioner shall submit to the appropriate congres-*
9 *sional committees a report that—*

10 (1) *identifies each partnership program referred*
11 *to in subsection (a);*

12 (2) *for each such program, identifies—*

13 (A) *the requirements for participants in the*
14 *program;*

15 (B) *the commercially significant and meas-*
16 *urable trade benefits provided to participants in*
17 *the program;*

18 (C) *the number of participants in the pro-*
19 *gram; and*

20 (D) *in the case of a program that provides*
21 *for participation at multiple tiers, the number of*
22 *participants at each such tier;*

23 (3) *identifies the number of participants enrolled*
24 *in more than one such partnership program;*

1 (4) assesses the effectiveness of each such partner-
2 ship program in advancing the security, trade en-
3 forcement, and trade facilitation missions of U.S.
4 Customs and Border Protection, based on historical
5 developments, the level of participation in the pro-
6 gram, and the evolution of benefits provided to par-
7 ticipants in the program;

8 (5) summarizes the efforts of U.S. Customs and
9 Border Protection to work with other Federal agencies
10 with authority to detain and release merchandise en-
11 tering the United States to ensure that partnership
12 programs of those agencies are compatible with part-
13 nership programs of U.S. Customs and Border Pro-
14 tection;

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

21 (7) summarizes the efforts of U.S. Customs and
22 Border Protection to work with private sector entities
23 and the public to develop and improve partnership
24 programs referred to in subsection (a);

1 (8) *describes measures taken by U.S. Customs*
2 *and Border Protection to make private sector entities*
3 *aware of the trade benefits available to participants*
4 *in such programs; and*

5 (9) *summarizes the plans, targets, and goals of*
6 *U.S. Customs and Border Protection with respect to*
7 *such programs for the 2 years following the submis-*
8 *sion of the report.*

9 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE ENFORCE-**
10 **MENT ACTIVITIES.**

11 (a) *IN GENERAL.*—*Not later than one year after the*
12 *date of the enactment of this Act, the Comptroller General*
13 *of the United States shall submit to the appropriate con-*
14 *gressional committees a report on the effectiveness of trade*
15 *enforcement activities of U.S. Customs and Border Protec-*
16 *tion.*

17 (b) *CONTENTS.*—*The report required by subsection (a)*
18 *shall include—*

19 (1) *a description of the use of resources, results*
20 *of audits and verifications, targeting, organization,*
21 *and training of personnel of U.S. Customs and Bor-*
22 *der Protection; and*

23 (2) *a description of trade enforcement activities*
24 *to address undervaluation, transshipment, legitimacy*
25 *of entities making entry, protection of revenues, fraud*

1 *prevention and detection, and penalties, including in-*
2 *tentional misclassification, inadequate bonding, and*
3 *other misrepresentations.*

4 **SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS FOR**
5 **CUSTOMS MODERNIZATION, TRADE FACILITA-**
6 **TION, AND TRADE ENFORCEMENT FUNC-**
7 **TIONS AND PROGRAMS.**

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

9 *(1) IN GENERAL.—The Commissioner, in con-*
10 *sultation with the appropriate congressional commit-*
11 *tees, shall establish priorities and performance stand-*
12 *ards to measure the development and levels of achieve-*
13 *ment of the customs modernization, trade facilitation,*
14 *and trade enforcement functions and programs de-*
15 *scribed in subsection (b).*

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

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

24 *(1) The Automated Commercial Environment.*

1 (2) *Each of the priority trade issues described in*
2 *section 118.*

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

5 (4) *Drawback for exported merchandise under*
6 *section 313 of the Tariff Act of 1930 (19 U.S.C.*
7 *1313), as amended by section 906 of this Act.*

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

10 (6) *Collection of countervailing duties assessed*
11 *under subtitle A of title VII of the Tariff Act of 1930*
12 *(19 U.S.C. 1671 et seq.) and antidumping duties as-*
13 *sessed under subtitle B of title VII of the Tariff Act*
14 *of 1930 (19 U.S.C. 1673 et seq.).*

15 (7) *The expedited clearance of cargo.*

16 (8) *The issuance of regulations and rulings.*

17 (9) *The issuance of Regulatory Audit Reports.*

18 (c) *CONSULTATIONS AND NOTIFICATION.—*

19 (1) *CONSULTATIONS.—The consultations re-*
20 *quired by subsection (a)(1) shall occur, at a min-*
21 *imum, on an annual basis.*

22 (2) *NOTIFICATION.—The Commissioner shall no-*
23 *tify the appropriate congressional committees of any*
24 *changes to the priorities referred to in subsection (a)*

1 **(b) CONTENT.**—

2 **(1) CLASSIFYING AND APPRAISING IMPORTED AR-**
3 **TICLES.**—*In carrying out subsection (a)(1)(A), the*
4 *Commissioner, the Director, and interested parties in*
5 *the private sector selected under subsection (c) shall*
6 *provide instruction and related instructional mate-*
7 *rials at each educational seminar under this section*
8 *to U.S. Customs and Border Protection personnel*
9 *and, as appropriate, to U.S. Immigration and Cus-*
10 *toms Enforcement personnel on the following:*

11 **(A) Conducting a physical inspection of an**
12 *article imported into the United States, includ-*
13 *ing testing of samples of the article, to determine*
14 *if the article is mislabeled in the manifest or*
15 *other accompanying documentation.*

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

22 **(C) Customs valuation.**

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

1 (2) *TRADE ENFORCEMENT EFFORTS.*—*In carrying out subsection (a)(1)(B), the Commissioner, the*
2 *Director, and interested parties in the private sector*
3 *selected under subsection (c) shall provide instruction*
4 *and related instructional materials at each edu-*
5 *cational seminar under this section to U.S. Customs*
6 *and Border Protection personnel and, as appropriate,*
7 *to U.S. Immigration and Customs Enforcement per-*
8 *sonnel to identify opportunities to enhance enforce-*
9 *ment of the following:*

11 (A) *Collection of countervailing duties as-*
12 *essed under subtitle A of title VII of the Tariff*
13 *Act of 1930 (19 U.S.C. 1671 et seq.) and anti-*
14 *dumping duties assessed under subtitle B of title*
15 *VII of the Tariff Act of 1930 (19 U.S.C. 1673 et*
16 *seq.).*

17 (B) *Addressing evasion of duties on imports*
18 *of textiles.*

19 (C) *Protection of intellectual property*
20 *rights.*

21 (D) *Enforcement of child labor laws.*

22 (3) *APPROVAL OF COMMISSIONER AND DIREC-*
23 *TOR.*—*The instruction and related instructional ma-*
24 *terials at each educational seminar under this section*

1 *shall be subject to the approval of the Commissioner*
2 *and the Director.*

3 (c) *SELECTION PROCESS.*—

4 (1) *IN GENERAL.*—*The Commissioner shall estab-*
5 *lish a process to solicit, evaluate, and select interested*
6 *parties in the private sector for purposes of assisting*
7 *in providing instruction and related instructional*
8 *materials described in subsection (b) at each edu-*
9 *cational seminar under this section.*

10 (2) *CRITERIA.*—*The Commissioner shall evaluate*
11 *and select interested parties in the private sector*
12 *under the process established under paragraph (1)*
13 *based on—*

14 (A) *availability and usefulness;*

15 (B) *the volume, value, and incidence of*
16 *mislabeling or misidentification of origin of im-*
17 *ported articles; and*

18 (C) *other appropriate criteria established by*
19 *the Commissioner.*

20 (3) *PUBLIC AVAILABILITY.*—*The Commissioner*
21 *and the Director shall publish in the Federal Register*
22 *a detailed description of the process established under*
23 *paragraph (1) and the criteria established under*
24 *paragraph (2).*

1 (d) *SPECIAL RULE FOR ANTIDUMPING AND COUNTER-*
2 *VAILING DUTY ORDERS.*—

3 (1) *IN GENERAL.*—*The Commissioner shall give*
4 *due consideration to carrying out an educational*
5 *seminar under this section in whole or in part to im-*
6 *prove the ability of U.S. Customs and Border Protec-*
7 *tion personnel to enforce a countervailing or anti-*
8 *dumping duty order issued under section 706 or 736*
9 *of the Tariff Act of 1930 (19 U.S.C. 1671e or 1673e)*
10 *upon the request of a petitioner in an action under-*
11 *lying such countervailing or antidumping duty order.*

12 (2) *INTERESTED PARTY.*—*A petitioner described*
13 *in paragraph (1) shall be treated as an interested*
14 *party in the private sector for purposes of the require-*
15 *ments of this section.*

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

20 (f) *REPORTING.*—*Beginning September 30, 2016, the*
21 *Commissioner and the Director shall submit to the appro-*
22 *priate congressional committees an annual report on the*
23 *effectiveness of educational seminars under this section.*

24 (g) *DEFINITIONS.*—*In this section:*

1 (1) *DIRECTOR.*—*The term “Director” means the*
2 *Director of U.S. Immigration and Customs Enforce-*
3 *ment.*

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

8 (3) *U.S. CUSTOMS AND BORDER PROTECTION*
9 *PERSONNEL.*—*The term “U.S. Customs and Border*
10 *Protection personnel” means import specialists, audi-*
11 *tors, and other appropriate employees of the U.S.*
12 *Customs and Border Protection.*

13 (4) *U.S. IMMIGRATION AND CUSTOMS ENFORCE-*
14 *MENT PERSONNEL.*—*The term “U.S. Immigration*
15 *and Customs Enforcement personnel” means Home-*
16 *land Security Investigations Directorate personnel*
17 *and other appropriate employees of U.S. Immigration*
18 *and Customs Enforcement.*

19 **SEC. 105. JOINT STRATEGIC PLAN.**

20 (a) *IN GENERAL.*—*Not later than one year after the*
21 *date of the enactment of this Act, and every 2 years there-*
22 *after, the Commissioner and the Director of U.S. Immigra-*
23 *tion and Customs Enforcement shall jointly develop and*
24 *submit to the appropriate congressional committees a joint*
25 *strategic plan.*

1 (b) *CONTENTS.*—*The joint strategic plan required*
2 *under this section shall be comprised of a comprehensive*
3 *multi-year plan for trade enforcement and trade facilita-*
4 *tion, and shall include—*

5 (1) *a summary of actions taken during the 2-*
6 *year period preceding the submission of the plan to*
7 *improve trade enforcement and trade facilitation, in-*
8 *cluding a description and analysis of specific per-*
9 *formance measures to evaluate the progress of U.S.*
10 *Customs and Border Protection and U.S. Immigration*
11 *and Customs Enforcement in meeting each such*
12 *responsibility;*

13 (2) *a statement of objectives and plans for fur-*
14 *ther improving trade enforcement and trade facilita-*
15 *tion;*

16 (3) *a specific identification of the priority trade*
17 *issues described in section 118, that can be addressed*
18 *in order to enhance trade enforcement and trade fa-*
19 *cilitation, and a description of strategies and plans*
20 *for addressing each such issue;*

21 (4) *a description of efforts made to improve con-*
22 *sultation and coordination among and within Fed-*
23 *eral agencies, and in particular between U.S. Cus-*
24 *toms and Border Protection and U.S. Immigration*

1 *and Customs Enforcement, regarding trade enforce-*
2 *ment and trade facilitation;*

3 (5) *a description of the training that has oc-*
4 *curred to date within U.S. Customs and Border Pro-*
5 *tection and U.S. Immigration and Customs Enforce-*
6 *ment to improve trade enforcement and trade facilita-*
7 *tion, including training under section 104;*

8 (6) *a description of efforts to work with the*
9 *World Customs Organization and other international*
10 *organizations, in consultation with other Federal*
11 *agencies as appropriate, with respect to enhancing*
12 *trade enforcement and trade facilitation;*

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

16 (8) *a specific identification of any domestic or*
17 *international best practices that may further improve*
18 *trade enforcement and trade facilitation;*

19 (9) *any legislative recommendations to further*
20 *improve trade enforcement and trade facilitation; and*

21 (10) *a description of efforts made to improve*
22 *consultation and coordination with the private sector*
23 *to enhance trade enforcement and trade facilitation.*

24 (c) *CONSULTATIONS.—*

1 (1) *IN GENERAL.*—*In developing the joint strategic*
2 *plan required under this section, the Commissioner and the Director of U.S. Immigration and*
3 *Customs Enforcement shall consult with—*

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

6 (i) *the Department of the Treasury;*

7 (ii) *the Department of Agriculture;*

8 (iii) *the Department of Commerce;*

9 (iv) *the Department of Justice;*

10 (v) *the Department of the Interior;*

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

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

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

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

19 (B) *the Commercial Customs Operations*
20 *Advisory Committee established by section 109.*

21 (2) *OTHER CONSULTATIONS.*—*In developing the*
22 *joint strategic plan required under this section, the*
23 *Commissioner and the Director shall seek to consult*
24 *with—*
25

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

5 (B) interested parties in the private sector.

6 **SEC. 106. AUTOMATED COMMERCIAL ENVIRONMENT.**

7 (a) *FUNDING.*—Section 13031(f)(4)(B) of the Consoli-
8 dated Omnibus Budget Reconciliation Act of 1985 (19
9 U.S.C. 58c(f)(4)(B)) is amended—

10 (1) by striking “2003 through 2005” and insert-
11 ing “2016 through 2018”;

12 (2) by striking “such amounts as are available
13 in that Account” and inserting “not less than
14 \$153,736,000”; and

15 (3) by striking “for the development” and insert-
16 ing “to complete the development and implementa-
17 tion”.

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

21 “(3) *REPORT.*—

22 “(A) *IN GENERAL.*—Not later than Decem-
23 ber 31, 2016, the Commissioner of U.S. Customs
24 and Border Protection shall submit to the Com-
25 mittee on Appropriations and the Committee on

1 *Finance of the Senate and the Committee on Ap-*
2 *propriations and the Committee on Ways and*
3 *Means of the House of Representatives a report*
4 *detailing—*

5 “(i) *U.S. Customs and Border Protec-*
6 *tion’s incorporation of all core trade proc-*
7 *essing capabilities, including cargo release,*
8 *entry summary, cargo manifest, cargo fi-*
9 *nanacial data, and export data elements into*
10 *the Automated Commercial Environment*
11 *computer system authorized under section*
12 *13031(f)(4) of the Consolidated Omnibus*
13 *Budget and Reconciliation Act of 1985 (19*
14 *U.S.C. 58c(f)(4)) not later than September*
15 *30, 2016, to conform with the admissibility*
16 *criteria of agencies participating in the*
17 *International Trade Data System identified*
18 *pursuant to section 411(d)(4)(A)(iii) of the*
19 *Tariff Act of 1930;*

20 “(ii) *U.S. Customs and Border Protec-*
21 *tion’s remaining priorities for processing*
22 *entry summary data elements, cargo mani-*
23 *fest data elements, cargo financial data ele-*
24 *ments, and export elements in the Auto-*
25 *mated Commercial Environment computer*

1 *system, and the objectives and plans for im-*
2 *plementing these remaining priorities;*

3 “(iii) *the components of the National*
4 *Customs Automation Program specified in*
5 *subsection (a)(2) of section 411 of the Tariff*
6 *Act of 1930 that have not been imple-*
7 *mented; and*

8 “(iv) *any additional components of the*
9 *National Customs Automation Program*
10 *initiated by the Commissioner to complete*
11 *the development, establishment, and imple-*
12 *mentation of the Automated Commercial*
13 *Environment computer system.*

14 “(B) *UPDATE OF REPORTS.—Not later than*
15 *September 30, 2017, the Commissioner shall sub-*
16 *mit to the Committee on Appropriations and the*
17 *Committee on Finance of the Senate and the*
18 *Committee on Appropriations and the Com-*
19 *mittee on Ways and Means of the House of Rep-*
20 *resentatives an updated report addressing each of*
21 *the matters referred to in subparagraph (A),*
22 *and—*

23 “(i) *evaluating the effectiveness of the*
24 *implementation of the Automated Commer-*
25 *cial Environment computer system; and*

1 “(ii) detailing the percentage of trade
2 processed in the Automated Commercial
3 Environment every month since September
4 30, 2016.”.

5 (c) **GOVERNMENT ACCOUNTABILITY OFFICE RE-**
6 *PORT.*—Not later than December 31, 2017, the Comptroller
7 *General of the United States shall submit to the Committee*
8 *on Appropriations and the Committee on Finance of the*
9 *Senate and the Committee on Appropriations and the Com-*
10 *mittee on Ways and Means of the House of Representatives*
11 *a report—*

12 (1) *assessing the progress of other Federal agen-*
13 *cies in accessing and utilizing the Automated Com-*
14 *mercial Environment; and*

15 (2) *assessing the potential cost savings to the*
16 *United States Government and importers and export-*
17 *ers and the potential benefits to enforcement of the*
18 *customs and trade laws of the United States if the ele-*
19 *ments identified in clauses (i) through (iv) of section*
20 *311(b)(3)(A) of the Customs Border Security Act of*
21 *2002, as amended by subsection (b) of this section, are*
22 *implemented.*

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

24 Section 411(d) of the Tariff Act of 1930 (19 U.S.C.
25 1411(d)) is amended—

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

3 (2) *by inserting after paragraph (3) the fol-*
4 *lowing:*

5 “(4) *INFORMATION TECHNOLOGY INFRASTRUC-*
6 *TURE.—*

7 “(A) *IN GENERAL.—The Secretary shall*
8 *work with the head of each agency participating*
9 *in the ITDS and the Interagency Steering Com-*
10 *mittee to ensure that each agency—*

11 “(i) *develops and maintains the nec-*
12 *essary information technology infrastruc-*
13 *ture to support the operation of the ITDS*
14 *and to submit all data to the ITDS elec-*
15 *tronically;*

16 “(ii) *enters into a memorandum of un-*
17 *derstanding, or takes such other action as is*
18 *necessary, to provide for the information*
19 *sharing between the agency and U.S. Cus-*
20 *toms and Border Protection necessary for*
21 *the operation and maintenance of the*
22 *ITDS;*

23 “(iii) *not later than June 30, 2016,*
24 *identifies and transmits to the Commis-*
25 *sioner of U.S. Customs and Border Protec-*

1 *tion the admissibility criteria and data ele-*
2 *ments required by the agency to authorize*
3 *the release of cargo by U.S. Customs and*
4 *Border Protection for incorporation into the*
5 *operational functionality of the Automated*
6 *Commercial Environment computer system*
7 *authorized under section 13031(f)(4) of the*
8 *Consolidated Omnibus Budget and Rec-*
9 *onciliation Act of 1985 (19 U.S.C.*
10 *58c(f)(4)); and*

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

19 *“(B) RULE OF CONSTRUCTION.—Nothing in*
20 *this paragraph shall be construed to require any*
21 *action to be taken that would compromise an on-*
22 *going law enforcement investigation or national*
23 *security.”; and*

24 *(3) in paragraph (8), as redesignated, by strik-*
25 *ing “section 9503(c) of the Omnibus Budget Rec-*

1 *compatibility of the partnership programs of that country*
2 *with the partnership programs of U.S. Customs and Border*
3 *Protection to enhance security, trade facilitation, and trade*
4 *enforcement.*

5 **SEC. 109. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**
6 **COMMITTEE.**

7 (a) *ESTABLISHMENT.*—*Not later than the date that is*
8 *60 days after the date of the enactment of this Act, the Sec-*
9 *retary of the Treasury and the Secretary of Homeland Secu-*
10 *rity shall jointly establish a Commercial Customs Oper-*
11 *ations Advisory Committee (in this section referred to as*
12 *the “Advisory Committee”).*

13 (b) *MEMBERSHIP.*—

14 (1) *IN GENERAL.*—*The Advisory Committee shall*
15 *be comprised of—*

16 (A) *20 individuals appointed under para-*
17 *graph (2);*

18 (B) *the Assistant Secretary for Tax Policy*
19 *of the Department of the Treasury and the Com-*
20 *missioner, who shall jointly co-chair meetings of*
21 *the Advisory Committee; and*

22 (C) *the Assistant Secretary for Policy and*
23 *the Director of U.S. Immigration and Customs*
24 *Enforcement of the Department of Homeland Se-*

1 *curity, who shall serve as deputy co-chairs of*
2 *meetings of the Advisory Committee.*

3 (2) *APPOINTMENT.*—

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

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

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

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

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

1 (3) *TRANSFER OF MEMBERSHIP.*—*The Secretary*
2 *of the Treasury and the Secretary of Homeland Secu-*
3 *rity may transfer members serving on the Advisory*
4 *Committee on Commercial Operations of the United*
5 *States Customs Service established under section*
6 *9503(c) of the Omnibus Budget Reconciliation Act of*
7 *1987 (19 U.S.C. 2071 note) on the day before the date*
8 *of the enactment of this Act to the Advisory Com-*
9 *mittee established under subsection (a).*

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

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

19 (2) *provide recommendations to the Secretary of*
20 *the Treasury and the Secretary of Homeland Security*
21 *on improvements to the commercial operations of*
22 *U.S. Customs and Border Protection;*

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

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

6 (d) *MEETINGS.*—

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

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

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

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

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

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

15 (g) *CONFORMING AMENDMENT.*—

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

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

1 *the date on which the Advisory Committee is estab-*
2 *lished under subsection (a), shall be deemed a ref-*
3 *erence to the Commercial Customs Operations Advi-*
4 *sory Committee established under subsection (a).*

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

6 *(a) IN GENERAL.—The Commissioner shall, in con-*
7 *sultation with the appropriate congressional committees*
8 *and the Commercial Customs Operations Advisory Com-*
9 *mittee established by section 109, develop and implement*
10 *Centers of Excellence and Expertise throughout U.S. Cus-*
11 *toms and Border Protection that—*

12 *(1) enhance the economic competitiveness of the*
13 *United States by consistently enforcing the laws and*
14 *regulations of the United States at all ports of entry*
15 *of the United States and by facilitating the flow of le-*
16 *gitimate trade through increasing industry-based*
17 *knowledge;*

18 *(2) improve enforcement efforts, including en-*
19 *forcement of priority trade issues described in section*
20 *118, in specific industry sectors through the applica-*
21 *tion of targeting information from the National Tar-*
22 *geting Center under section 111 and from other*
23 *means of verification;*

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

4 (4) *promote the uniform implementation at each*
5 *port of entry of the United States of policies and reg-*
6 *ulations relating to imports;*

7 (5) *centralize the trade enforcement and trade fa-*
8 *cilitation efforts of U.S. Customs and Border Protec-*
9 *tion;*

10 (6) *formalize an account-based approach to*
11 *apply, as the Commissioner determines appropriate,*
12 *to the importation of merchandise into the United*
13 *States;*

14 (7) *foster partnerships through the expansion of*
15 *trade programs and other trusted partner programs;*

16 (8) *develop applicable performance measure-*
17 *ments to meet internal efficiency and effectiveness*
18 *goals; and*

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

21 (b) *REPORT.*—*Not later than December 31, 2016, the*
22 *Commissioner shall submit to the appropriate congressional*
23 *committees a report describing—*

1 (1) *the scope, functions, and structure of each*
2 *Center of Excellence and Expertise developed and im-*
3 *plemented under subsection (a);*

4 (2) *the effectiveness of each such Center of Excel-*
5 *lence and Expertise in improving enforcement efforts,*
6 *including enforcement of priority trade issues de-*
7 *scribed in section 118, and facilitating legitimate*
8 *trade;*

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

15 (4) *all applicable performance measurements*
16 *with respect to each such Center of Excellence and*
17 *Expertise, including performance measures with re-*
18 *spect to meeting internal efficiency and effectiveness*
19 *goals;*

20 (5) *the performance of each such Center of Excel-*
21 *lence and Expertise in increasing the accuracy and*
22 *completeness of data with respect to international*
23 *trade and facilitating a more efficient flow of infor-*
24 *mation between Federal agencies; and*

1 (6) any planned changes in the number, scope,
2 functions or any other aspect of the Centers of Excel-
3 lence and Expertise developed and implemented under
4 subsection (a).

5 **SEC. 111. COMMERCIAL RISK ASSESSMENT TARGETING AND**
6 **TRADE ALERTS.**

7 (a) *COMMERCIAL RISK ASSESSMENT TARGETING.*—In
8 carrying out its duties under section 411(g)(4) of the Home-
9 land Security Act of 2002, as added by section 802(a) of
10 this Act, the National Targeting Center shall—

11 (1) establish targeted risk assessment methodolo-
12 gies and standards—

13 (A) for evaluating the risk that cargo des-
14 tined for the United States may violate the cus-
15 toms and trade laws of the United States, par-
16 ticularly those laws applicable to merchandise
17 subject to the priority trade issues described in
18 section 118; and

19 (B) for issuing, as appropriate, Trade
20 Alerts described in subsection (b);

21 (2) to the extent practicable and otherwise au-
22 thorized by law, use, to administer the methodologies
23 and standards established under paragraph (1)—

24 (A) publicly available information;

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

11 (C) information made available to the Na-
12 tional Targeting Center, including information
13 provided by private sector entities; and

14 (3) provide for the receipt and transmission to
15 the appropriate U.S. Customs and Border Protection
16 offices of allegations from interested parties in the
17 private sector of violations of customs and trade laws
18 of the United States of merchandise relating to the
19 priority trade issues described in section 118.

20 (b) TRADE ALERTS.—

21 (1) ISSUANCE.—In carrying out its duties under
22 section 411(g)(4) of the Homeland Security Act of
23 2002, as added by section 802(a) of this Act, and
24 based upon the application of the targeted risk assess-
25 ment methodologies and standards established under

1 subsection (a), the Executive Director of the National
2 Targeting Center may issue Trade Alerts to directors
3 of United States ports of entry directing further in-
4 spection, or physical examination or testing, of spe-
5 cific merchandise to ensure compliance with all ap-
6 plicable customs and trade laws and regulations ad-
7 ministered by U.S. Customs and Border Protection.

8 (2) *DETERMINATIONS NOT TO IMPLEMENT TRADE*
9 *ALERTS.*—The director of a United States port of
10 entry may determine not to conduct further inspec-
11 tions, or physical examination or testing, pursuant to
12 a Trade Alert issued under paragraph (1) if—

13 (A) the director finds that such a deter-
14 mination is justified by port security interests;
15 and

16 (B) not later than 48 hours after making
17 the determination, notifies the Assistant Com-
18 missioner of the Office of Field Operations of
19 U.S. Customs and Border Protection of the deter-
20 mination and the reasons for the determination.

21 (3) *SUMMARY OF DETERMINATIONS NOT TO IM-*
22 *PLEMENT.*—The Assistant Commissioner of the Office
23 of Field Operations of U.S. Customs and Border Pro-
24 tection shall—

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

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

7 (C) not later than December 31 of each
8 year, submit the summary to the appropriate
9 congressional committees.

10 (4) *INSPECTION DEFINED.*—In this subsection,
11 the term “inspection” means the comprehensive eval-
12 uation process used by U.S. Customs and Border Pro-
13 tection, other than physical examination or testing, to
14 permit the entry of merchandise into the United
15 States, or the clearance of merchandise for transpor-
16 tation in bond through the United States, for pur-
17 poses of—

18 (A) assessing duties;

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

21 (C) ensuring compliance with all applicable
22 customs and trade laws and regulations admin-
23 istered by U.S. Customs and Border Protection.

1 (c) *USE OF TRADE DATA FOR COMMERCIAL ENFORCE-*
2 *MENT PURPOSES.*—Section 343(a)(3)(F) of the Trade Act
3 of 2002 (19 U.S.C. 2071 note) is amended to read as follows:

4 “(F) The information collected pursuant to
5 the regulations shall be used exclusively for en-
6 suring cargo safety and security, preventing
7 smuggling, and commercial risk assessment tar-
8 geting, and shall not be used for any commercial
9 enforcement purposes, including for determining
10 merchandise entry. Notwithstanding the pre-
11 ceding sentence, nothing in this section shall be
12 treated as amending, repealing, or otherwise
13 modifying title IV of the Tariff Act of 1930 or
14 regulations promulgated thereunder.”.

15 **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**
16 **TION AND ENFORCEMENT MEASURES.**

17 (a) *IN GENERAL.*—Not later the March 31, 2016, and
18 not later than March 31 of each second year thereafter, the
19 Inspector General of the Department of the Treasury shall
20 submit to the Committee on Finance of the Senate and the
21 Committee on Ways and Means of the House of Representa-
22 tives a report assessing, with respect to the period covered
23 by the report, as specified in subsection (b), the following:

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

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

10 (B) *the assessment, collection, and mitiga-*
11 *tion of commercial fines and penalties;*

12 (C) *the use of bonds, including continuous*
13 *and single transaction bonds, to secure that rev-*
14 *enue; and*

15 (D) *the adequacy of the policies of U.S.*
16 *Customs and Border Protection with respect to*
17 *the monitoring and tracking of merchandise*
18 *transported in bond and collecting duties, as ap-*
19 *propriate.*

20 (2) *The effectiveness of actions taken by U.S.*
21 *Customs and Border Protection to measure account-*
22 *ability and performance with respect to protection of*
23 *revenue.*

1 (b) *ELEMENTS.*—*Each report required by subsection*
2 *(a) shall include, for the fiscal year preceding the submis-*
3 *sion of the report, information on—*

4 (1) *the overall number of entries of merchandise*
5 *for transportation in bond through the United States;*

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

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

15 (4) *the average time taken to transport merchan-*
16 *dise in bond from the port at which the merchandise*
17 *arrives in the United States to its final destination*
18 *in the United States;*

19 (5) *the total amount of duties, taxes, and fees*
20 *owed with respect to shipments of merchandise trans-*
21 *ported in bond and the total amount of such duties,*
22 *taxes, and fees paid;*

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

1 (7) the number of entries that remain
2 unreconciled.

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

4 (a) *ESTABLISHMENT.*—Not later than the date that is
5 180 days after the date of the enactment of this Act, the
6 Secretary of Homeland Security shall establish an importer
7 of record program to assign and maintain importer of
8 record numbers.

9 (b) *REQUIREMENTS.*—The Secretary shall ensure that,
10 as part of the importer of record program, U.S. Customs
11 and Border Protection—

12 (1) develops criteria that importers must meet in
13 order to obtain an importer of record number, includ-
14 ing—

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

19 (B) criteria to ensure sufficient information
20 is collected to allow U.S. Customs and Border
21 Protection to identify linkages or other affili-
22 ations between importers that are requesting or
23 have been assigned importer of record numbers;
24 and

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

5 (2) provides a process by which importers are as-
6 signed importer of record numbers;

7 (3) maintains a centralized database of importer
8 of record numbers, including a history of importer of
9 record numbers associated with each importer, and
10 the information described in subparagraphs (A), (B),
11 and (C) of paragraph (1);

12 (4) evaluates and maintains the accuracy of the
13 database if such information changes; and

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

16 (c) *REPORT.*—Not later than one year after the date
17 of the enactment of this Act, the Secretary shall submit to
18 the Committee on Finance of the Senate and the Committee
19 on Ways and Means of the House of Representatives a re-
20 port on the importer of record program established under
21 subsection (a).

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

1 *similar regulation) that fully supports the requirements of*
2 *subsection (b) with respect to the collection and mainte-*
3 *nance of information.*

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

5 *(a) IN GENERAL.—Not later than the date that is 180*
6 *days after the date of the enactment of this Act, the Commis-*
7 *sioner shall establish a new importer program that directs*
8 *U.S. Customs and Border Protection to adjust bond*
9 *amounts for new importers based on the level of risk as-*
10 *essed by U.S. Customs and Border Protection for protec-*
11 *tion of revenue of the Federal Government.*

12 *(b) REQUIREMENTS.—The Commissioner shall ensure*
13 *that, as part of the new importer program established under*
14 *subsection (a), U.S. Customs and Border Protection—*

15 *(1) develops risk-based criteria for determining*
16 *which importers are considered to be new importers*
17 *for the purposes of this subsection;*

18 *(2) develops risk assessment guidelines for new*
19 *importers to determine if and to what extent—*

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

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

24 *(3) develops procedures to ensure increased over-*
25 *sight of imported products of new importers relating*

1 to the enforcement of the priority trade issues de-
2 scribed in section 118;

3 (4) develops procedures to ensure increased over-
4 sight of imported products of new importers by Cen-
5 ters of Excellence and Expertise established under sec-
6 tion 110; and

7 (5) establishes a centralized database of new im-
8 porters to ensure accuracy of information that is re-
9 quired to be provided by new importers to U.S. Cus-
10 toms and Border Protection.

11 **SEC. 116. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**

12 **ERS.**

13 (a) *IN GENERAL.*—Section 641 of the Tariff Act of
14 1930 (19 U.S.C. 1641) is amended by adding at the end
15 the following:

16 “(i) *IDENTIFICATION OF IMPORTERS.*—

17 “(1) *IN GENERAL.*—The Secretary shall prescribe
18 regulations setting forth the minimum standards for
19 customs brokers and importers, including nonresident
20 importers, regarding the identity of the importer that
21 shall apply in connection with the importation of
22 merchandise into the United States.

23 “(2) *MINIMUM REQUIREMENTS.*—The regulations
24 shall, at a minimum, require customs brokers to im-

1 *plement, and importers (after being given adequate*
2 *notice) to comply with, reasonable procedures for—*

3 *“(A) collecting the identity of importers, in-*
4 *cluding nonresident importers, seeking to import*
5 *merchandise into the United States to the extent*
6 *reasonable and practicable; and*

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

11 *“(3) PENALTIES.—Any customs broker who fails*
12 *to collect information required under the regulations*
13 *prescribed under this subsection shall be liable to the*
14 *United States, at the discretion of the Secretary, for*
15 *a monetary penalty not to exceed \$10,000 for each*
16 *violation of those regulations and subject to revocation*
17 *or suspension of a license or permit of the customs*
18 *broker pursuant to the procedures set forth in sub-*
19 *section (d).*

20 *“(4) DEFINITIONS.—In this subsection—*

21 *“(A) the term ‘importer’ means one of the*
22 *parties qualifying as an importer of record*
23 *under section 484(a)(2)(B); and*

24 *“(B) the term ‘nonresident importer’ means*
25 *an importer who is—*

1 “(i) an individual who is not a citizen
2 of the United States or an alien lawfully
3 admitted for permanent residence in the
4 United States; or

5 “(ii) a partnership, corporation, or
6 other commercial entity that is not orga-
7 nized under the laws of a jurisdiction with-
8 in the customs territory of the United States
9 (as such term is defined in General Note 2
10 of the Harmonized Tariff Schedule of the
11 United States) or in the Virgin Islands of
12 the United States.”.

13 (b) *STUDY AND REPORT REQUIRED.*—Not later than
14 180 days after the date of enactment of this Act, the Com-
15 missioner shall submit to Congress a report containing rec-
16 ommendations for—

17 (1) *determining the most timely and effective*
18 *way to require foreign nationals to provide customs*
19 *brokers with appropriate and accurate information,*
20 *comparable to that which is required of United States*
21 *nationals, concerning the identity, address, and other*
22 *related information relating to such foreign nationals*
23 *necessary to enable customs brokers to comply with*
24 *the requirements of section 641(i) of the Tariff Act of*
25 *1930 (as added by subsection (a) of this section); and*

1 “(2) *The Commissioner of U.S. Customs and*
2 *Border Protection shall require the non-resident im-*
3 *porter to establish a power of attorney with the resi-*
4 *dent agent in connection with the importation of mer-*
5 *chandise.*

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

12 “(d) *PENALTIES.—*

13 “(1) *IN GENERAL.—It shall be unlawful for any*
14 *person to import into the United States any merchan-*
15 *dise in violation of this section.*

16 “(2) *CIVIL PENALTIES.—Any person who violates*
17 *paragraph (1) shall be liable for a civil penalty of*
18 *\$50,000 for each such violation.*

19 “(3) *OTHER PENALTIES.—In addition to the*
20 *penalties specified in paragraph (2), any violation of*
21 *this section that violates any other customs and trade*
22 *laws of the United States shall be subject to any ap-*
23 *licable civil and criminal penalty, including seizure*
24 *and forfeiture, that may be imposed under such cus-*

1 *toms or trade law or title 18, United States Code,*
2 *with respect to the importation of merchandise.*

3 “(4) *DEFINITION.*—*In this subsection, the term*
4 *‘customs and trade laws of the United States’ has the*
5 *meaning given such term in section 2 of the Trade*
6 *Facilitation and Trade Enforcement Act of 2015.”.*

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

14 **SEC. 118. PRIORITY TRADE ISSUES.**

15 (a) *IN GENERAL.*—*The Commissioner shall establish*
16 *the following as priority trade issues:*

- 17 (1) *Agriculture programs.*
18 (2) *Antidumping and countervailing duties.*
19 (3) *Import safety.*
20 (4) *Intellectual property rights.*
21 (5) *Revenue.*
22 (6) *Textiles and wearing apparel.*
23 (7) *Trade agreements and preference programs.*

24 (b) *MODIFICATION.*—*The Commissioner is authorized*
25 *to establish new priority trade issues and eliminate, con-*

1 *solidate, or otherwise modify the priority trade issues de-*
2 *scribed in subsection (a) if the Commissioner—*

3 *(1) determines it necessary and appropriate to*
4 *do so; and*

5 *(2) submits to the appropriate congressional*
6 *committees a summary of the proposed changes to the*
7 *priority trade issues not later than 60 days before*
8 *such changes are to take effect.*

9 **SEC. 119. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
10 **FINED.**

11 *In this title, the term “appropriate congressional com-*
12 *mittees” means—*

13 *(1) the Committee on Finance and the Com-*
14 *mittee on Homeland Security and Government Af-*
15 *airs of the Senate; and*

16 *(2) the Committee on Ways and Means and the*
17 *Committee on Homeland Security of the House of*
18 *Representatives.*

19 **TITLE II—IMPORT HEALTH AND**
20 **SAFETY**

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

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

1 (b) *MEMBERSHIP.*—*The interagency Import Safety*
2 *Working Group shall consist of the following officials or*
3 *their designees:*

4 (1) *The Secretary of Homeland Security, who*
5 *shall serve as the Chair.*

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

8 (3) *The Secretary of the Treasury.*

9 (4) *The Secretary of Commerce.*

10 (5) *The Secretary of Agriculture.*

11 (6) *The United States Trade Representative.*

12 (7) *The Director of the Office of Management*
13 *and Budget.*

14 (8) *The Commissioner of Food and Drugs.*

15 (9) *The Commissioner of U.S. Customs and Bor-*
16 *der Protection.*

17 (10) *The Chairman of the Consumer Product*
18 *Safety Commission.*

19 (11) *The Director of U.S. Immigration and Cus-*
20 *toms Enforcement.*

21 (12) *The head of any other Federal agency des-*
22 *ignated by the President to participate in the inter-*
23 *agency Import Safety Working Group, as appro-*
24 *priate.*

1 (c) *DUTIES.*—*The duties of the interagency Import*
2 *Safety Working Group shall include—*

3 (1) *consulting on the development of the joint*
4 *import safety rapid response plan required by section*
5 *202;*

6 (2) *periodically evaluating the adequacy of the*
7 *plans, practices, and resources of the Federal Govern-*
8 *ment dedicated to ensuring the safety of merchandise*
9 *imported in the United States and the expeditious*
10 *entry of such merchandise, including—*

11 (A) *minimizing the duplication of efforts*
12 *among agencies the heads of which are members*
13 *of the interagency Import Safety Working Group*
14 *and ensuring the compatibility of the policies*
15 *and regulations of those agencies; and*

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

22 (3) *reviewing the engagement and cooperation of*
23 *foreign governments and foreign manufacturers in fa-*
24 *cilitating the inspection and certification, as appro-*
25 *priate, of such merchandise to be imported into the*

1 *United States and the facilities producing such mer-*
2 *chandise to ensure the safety of the merchandise and*
3 *the expeditious entry of the merchandise into the*
4 *United States;*

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

10 *(A) the inspection of manufacturing facili-*
11 *ties in foreign countries;*

12 *(B) the inspection of merchandise destined*
13 *for the United States before exportation from a*
14 *foreign country or before distribution in the*
15 *United States; and*

16 *(C) the protection of the international sup-*
17 *ply chain (as defined in section 2 of the Security*
18 *and Accountability For Every Port Act of 2006*
19 *(6 U.S.C. 901));*

20 *(5) identifying best practices to assist Federal,*
21 *State, and local governments and agencies, and port*
22 *authorities, to improve communication and coordina-*
23 *tion among such agencies and authorities with respect*
24 *to ensuring the safety of merchandise imported into*

1 *the United States and the expeditious entry of such*
2 *merchandise; and*

3 *(6) otherwise identifying appropriate steps to in-*
4 *crease the accountability of United States importers*
5 *and the engagement of foreign government agencies*
6 *with respect to ensuring the safety of merchandise im-*
7 *ported into the United States and the expeditious*
8 *entry of such merchandise.*

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

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

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

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

1 (b) *CONTENTS.*—*The joint import safety rapid re-*
2 *sponse plan shall address—*

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

7 (2) *the protocols and practices to be used by U.S.*
8 *Customs and Border Protection when taking action in*
9 *response to, and coordinating Federal responses to,*
10 *such an incident;*

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

17 (4) *exercises that U.S. Customs and Border Pro-*
18 *tection may conduct in conjunction with Federal,*
19 *State, and local agencies, and private sector entities,*
20 *to simulate responses to such an incident.*

21 (c) *UPDATES OF PLAN.*—*The Secretary of Homeland*
22 *Security shall review and update the joint import safety*
23 *rapid response plan, as appropriate, after conducting exer-*
24 *cises under subsection (d).*

25 (d) *IMPORT HEALTH AND SAFETY EXERCISES.*—

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

9 (2) *REQUIREMENTS FOR EXERCISES.*—*In con-*
10 *ducting exercises under paragraph (1), the Secretary*
11 *and the Commissioner shall—*

12 (A) *make allowance for the resources, needs,*
13 *and constraints of United States ports of entry*
14 *of different sizes in representative geographic lo-*
15 *cations across the United States;*

16 (B) *base evaluations on current risk assess-*
17 *ments of merchandise entering the United States*
18 *at representative United States ports of entry lo-*
19 *cated across the United States;*

20 (C) *ensure that such exercises are conducted*
21 *in a manner consistent with the National Inci-*
22 *dent Management System, the National Response*
23 *Plan, the National Infrastructure Protection*
24 *Plan, the National Preparedness Guidelines, the*
25 *Maritime Transportation System Security Plan,*

1 *and other such national initiatives of the De-*
2 *partment of Homeland Security, as appropriate;*
3 *and*

4 *(D) develop metrics with respect to the re-*
5 *sumption of the entry of merchandise into the*
6 *United States after an incident described in sub-*
7 *section (a)(1).*

8 *(3) REQUIREMENTS FOR TESTING AND EVALUA-*
9 *TION.—The Secretary and the Commissioner shall en-*
10 *sure that the testing and evaluation carried out in*
11 *conducting exercises under paragraph (1)—*

12 *(A) are performed using clear and objective*
13 *performance measures; and*

14 *(B) result in the identification of specific*
15 *recommendations or best practices for responding*
16 *to an incident described in subsection (a)(1).*

17 *(4) DISSEMINATION OF RECOMMENDATIONS AND*
18 *BEST PRACTICES.—The Secretary and the Commis-*
19 *sioner shall—*

20 *(A) share the recommendations or best prac-*
21 *tices identified under paragraph (3)(B) among*
22 *the members of the interagency Import Safety*
23 *Working Group established under section 201*
24 *and with, as appropriate—*

- 1 (i) State, local, and tribal govern-
2 ments;
3 (ii) foreign governments; and
4 (iii) private sector entities; and
5 (B) use such recommendations and best
6 practices to update the joint import safety rapid
7 response plan.

8 **SEC. 203. TRAINING.**

9 *The Commissioner shall ensure that personnel of U.S.*
10 *Customs and Border Protection assigned to United States*
11 *ports of entry are trained to effectively administer the pro-*
12 *visions of this title and to otherwise assist in ensuring the*
13 *safety of merchandise imported into the United States and*
14 *the expeditious entry of such merchandise.*

15 **TITLE III—IMPORT-RELATED**
16 **PROTECTION OF INTELLEC-**
17 **TUAL PROPERTY RIGHTS**

18 **SEC. 301. DEFINITION OF INTELLECTUAL PROPERTY**
19 **RIGHTS.**

20 *In this title, the term “intellectual property rights” re-*
21 *fers to copyrights, trademarks, and other forms of intellec-*
22 *tual property rights that are enforced by U.S. Customs and*
23 *Border Protection or U.S. Immigration and Customs En-*
24 *forcement.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 ***(b) NOTIFICATION OF PERSONS INJURED.—***

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

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

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

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

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

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

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

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

16 (B) *to develop metrics to assess whether the*
17 *training improved enforcement of intellectual*
18 *property rights;*

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

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

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

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

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

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

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

20 (10) *carry out such other duties as the Secretary*
21 *of Homeland Security may assign.*

22 (c) *COORDINATION WITH OTHER AGENCIES.—In car-*
23 *rying out the duties described in subsection (b), the Assist-*
24 *ant Director of the National Intellectual Property Rights*
25 *Coordination Center shall coordinate with—*

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

15 (d) *PRIVATE SECTOR OUTREACH.—*

- 16 (1) *IN GENERAL.—The Assistant Director of the*
- 17 *National Intellectual Property Rights Coordination*
- 18 *Center shall work with U.S. Customs and Border Pro-*
- 19 *tection and other Federal agencies to conduct outreach*
- 20 *to private sector entities in order to determine trends*
- 21 *in and methods of infringing intellectual property*
- 22 *rights.*
- 23 (2) *INFORMATION SHARING.—The Assistant Di-*
- 24 *rector shall share information and best practices with*
- 25 *respect to the enforcement of intellectual property*

1 *rights with private sector entities, as appropriate, in*
2 *order to coordinate public and private sector efforts to*
3 *combat the infringement of intellectual property*
4 *rights.*

5 **SEC. 306. JOINT STRATEGIC PLAN FOR THE ENFORCEMENT**
6 **OF INTELLECTUAL PROPERTY RIGHTS.**

7 *The Commissioner and the Director of U.S. Immigra-*
8 *tion and Customs Enforcement shall include in the joint*
9 *strategic plan required by section 105—*

10 *(1) a description of the efforts of the Department*
11 *of Homeland Security to enforce intellectual property*
12 *rights;*

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

19 *(3) a recommendation for the optimal allocation*
20 *of personnel, resources, and technology to ensure that*
21 *U.S. Customs and Border Protection and U.S. Immi-*
22 *gration and Customs Enforcement are adequately en-*
23 *forcing intellectual property rights.*

1 **SEC. 307. PERSONNEL DEDICATED TO THE ENFORCEMENT**
2 **OF INTELLECTUAL PROPERTY RIGHTS.**

3 (a) *PERSONNEL OF U.S. CUSTOMS AND BORDER PRO-*
4 *TECTION.*—*The Commissioner and the Director of U.S. Im-*
5 *migration and Customs Enforcement shall ensure that suffi-*
6 *cient personnel are assigned throughout U.S. Customs and*
7 *Border Protection and U.S. Immigration and Customs En-*
8 *forcement, respectively, who have responsibility for pre-*
9 *venting the importation into the United States of merchan-*
10 *dise that infringes intellectual property rights.*

11 (b) *STAFFING OF NATIONAL INTELLECTUAL PROPERTY*
12 *RIGHTS COORDINATION CENTER.*—*The Commissioner*
13 *shall—*

14 (1) *assign not fewer than 3 full-time employees*
15 *of U.S. Customs and Border Protection to the Na-*
16 *tional Intellectual Property Rights Coordination Cen-*
17 *ter established under section 305; and*

18 (2) *ensure that sufficient personnel are assigned*
19 *to United States ports of entry to carry out the direc-*
20 *tives of the Center.*

21 **SEC. 308. TRAINING WITH RESPECT TO THE ENFORCEMENT**
22 **OF INTELLECTUAL PROPERTY RIGHTS.**

23 (a) *TRAINING.*—*The Commissioner shall ensure that*
24 *officers of U.S. Customs and Border Protection are trained*
25 *to effectively detect and identify merchandise destined for*
26 *the United States that infringes intellectual property rights,*

1 *including through the use of technologies identified under*
2 *subsection (c).*

3 (b) *CONSULTATION WITH PRIVATE SECTOR.*—*The*
4 *Commissioner shall consult with private sector entities to*
5 *better identify opportunities for collaboration between U.S.*
6 *Customs and Border Protection and such entities with re-*
7 *spect to training for officers of U.S. Customs and Border*
8 *Protection in enforcing intellectual property rights.*

9 (c) *IDENTIFICATION OF NEW TECHNOLOGIES.*—*In con-*
10 *sultation with private sector entities, the Commissioner*
11 *shall identify—*

12 (1) *technologies with the cost-effective capability*
13 *to detect and identify merchandise at United States*
14 *ports of entry that infringes intellectual property*
15 *rights; and*

16 (2) *cost-effective programs for training officers of*
17 *U.S. Customs and Border Protection to use such tech-*
18 *nologies.*

19 (d) *DONATIONS OF TECHNOLOGY.*—*Not later than the*
20 *date that is 180 days after the date of the enactment of*
21 *this Act, the Commissioner shall prescribe regulations to en-*
22 *able U.S. Customs and Border Protection to receive dona-*
23 *tions of hardware, software, equipment, and similar tech-*
24 *nologies, and to accept training and other support services,*

1 *from private sector entities, for the purpose of enforcing in-*
2 *tellectual property rights.*

3 **SEC. 309. INTERNATIONAL COOPERATION AND INFORMA-**
4 **TION SHARING.**

5 (a) *COOPERATION.*—*The Secretary of Homeland Secu-*
6 *rity shall coordinate with the competent law enforcement*
7 *and customs authorities of foreign countries, including by*
8 *sharing information relevant to enforcement actions, to en-*
9 *hance the efforts of the United States and such authorities*
10 *to enforce intellectual property rights.*

11 (b) *TECHNICAL ASSISTANCE.*—*The Secretary of Home-*
12 *land Security shall provide technical assistance to com-*
13 *petent law enforcement and customs authorities of foreign*
14 *countries to enhance the ability of such authorities to en-*
15 *force intellectual property rights.*

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

21 **SEC. 310. REPORT ON INTELLECTUAL PROPERTY RIGHTS**
22 **ENFORCEMENT.**

23 *Not later than June 30, 2016, and annually thereafter,*
24 *the Commissioner and the Director of U.S. Immigration*
25 *and Customs Enforcement shall jointly submit to the Com-*

1 *mittee on Finance of the Senate, the Committee on Ways*
2 *and Means of the House of Representatives, the Committee*
3 *on Homeland Security and Governmental Affairs of the*
4 *Senate, and the Committee on Homeland Security of the*
5 *House of Representatives a report that contains the fol-*
6 *lowing:*

7 (1) *With respect to the enforcement of intellectual*
8 *property rights, the following:*

9 (A) *The number of referrals, during the pre-*
10 *ceding year, from U.S. Customs and Border Pro-*
11 *tection to U.S. Immigration and Customs En-*
12 *forcement relating to infringement of intellectual*
13 *property rights .*

14 (B) *The number of investigations relating to*
15 *the infringement of intellectual property rights*
16 *referred by U.S. Immigration and Customs En-*
17 *forcement to a United States attorney for pros-*
18 *ecution and the United States attorneys to which*
19 *those investigations were referred.*

20 (C) *The number of such investigations ac-*
21 *cepted by each such United States attorney and*
22 *the status or outcome of each such investigation.*

23 (D) *The number of such investigations that*
24 *resulted in the imposition of civil or criminal*
25 *penalties.*

1 (E) A description of the efforts of U.S. Custom and Border Protection and U.S. Immigration and Customs Enforcement to improve the success rates of investigations and prosecutions relating to the infringement of intellectual property rights.

2 (2) An estimate of the average time required by the Office of International Trade of U.S. Customs and Border Protection to respond to a request from port personnel for advice with respect to whether merchandise detained by U.S. Customs and Border Protection infringed intellectual property rights, distinguished by types of intellectual property rights infringed.

3 (3) A summary of the outreach efforts of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement with respect to—

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

5 (B) collaboration with private sector entities—

6 (i) to identify trends in the infringement of, and technologies that infringe, intellectual property rights;

1 (ii) to identify opportunities for en-
2 hanced training of officers of U.S. Customs
3 and Border Protection and U.S. Immigra-
4 tion and Customs Enforcement; and

5 (iii) to develop best practices to enforce
6 intellectual property rights; and

7 (C) coordination with foreign governments
8 and international organizations with respect to
9 the enforcement of intellectual property rights.

10 (4) A summary of the efforts of U.S. Customs
11 and Border Protection and U.S. Immigration and
12 Customs Enforcement to address the challenges with
13 respect to the enforcement of intellectual property
14 rights presented by Internet commerce and the transit
15 of small packages and an identification of the volume,
16 value, and type of merchandise seized for infringing
17 intellectual property rights as a result of such efforts.

18 (5) A summary of training relating to the en-
19 forcement of intellectual property rights conducted
20 under section 308 and expenditures for such training.

21 **SEC. 311. INFORMATION FOR TRAVELERS REGARDING VIO-**
22 **LATIONS OF INTELLECTUAL PROPERTY**
23 **RIGHTS.**

24 (a) *IN GENERAL.*—The Secretary of Homeland Secu-
25 rity shall develop and carry out an educational campaign

1 *to inform travelers entering or leaving the United States*
2 *about the legal, economic, and public health and safety im-*
3 *plications of acquiring merchandise that infringes intellec-*
4 *tual property rights outside the United States and import-*
5 *ing such merchandise into the United States in violation*
6 *of United States law.*

7 **(b) DECLARATION FORMS.**—*The Commissioner shall*
8 *ensure that all versions of Declaration Form 6059B of U.S.*
9 *Customs and Border Protection, or a successor form, includ-*
10 *ing any electronic equivalent of Declaration Form 6059B*
11 *or a successor form, printed or displayed on or after the*
12 *date that is 30 days after the date of the enactment of this*
13 *Act include a written warning to inform travelers arriving*
14 *in the United States that importation of merchandise into*
15 *the United States that infringes intellectual property rights*
16 *may subject travelers to civil or criminal penalties and may*
17 *pose serious risks to safety or health.*

18 **TITLE IV—PREVENTION OF EVA-**
19 **SION OF ANTIDUMPING AND**
20 **COUNTERVAILING DUTY OR-**
21 **DERS**

22 **SEC. 401. SHORT TITLE.**

23 *This title may be cited as the “Preventing Recurring*
24 *Trade Evasion and Circumvention Act” or “PROTECT*
25 *Act”.*

1 **SEC. 402. DEFINITIONS.**

2 *In this title:*

3 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
4 *TEES.—The term “appropriate congressional commit-*
5 *tees” means—*

6 (A) *the Committee on Finance and the*
7 *Committee on Appropriations of the Senate; and*

8 (B) *the Committee on Ways and Means and*
9 *the Committee on Appropriations of the House of*
10 *Representatives.*

11 (2) *COVERED MERCHANDISE.—The term “cov-*
12 *ered merchandise” means merchandise that is subject*
13 *to—*

14 (A) *a countervailing duty order issued*
15 *under section 706 of the Tariff Act of 1930; or*

16 (B) *an antidumping duty order issued*
17 *under section 736 of the Tariff Act of 1930.*

18 (3) *ELIGIBLE SMALL BUSINESS.—*

19 (A) *IN GENERAL.—The term “eligible small*
20 *business” means any business concern which, in*
21 *the Commissioner’s judgment, due to its small*
22 *size, has neither adequate internal resources nor*
23 *financial ability to obtain qualified outside as-*
24 *sistance in preparing and submitting for consid-*
25 *eration allegations of evasion.*

1 (B) *NONREVIEWABILITY.*—Any agency deci-
2 sion regarding whether a business concern is an
3 eligible small business for purposes of section
4 411(b)(4)(E) is not reviewable by any other
5 agency or by any court.

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

10 (5) *EVADE; EVASION.*—The terms “evade” and
11 “evasion” refer to entering covered merchandise into
12 the customs territory of the United States by means
13 of any document or electronically transmitted data or
14 information, written or oral statement, or act that is
15 material and false, or any omission that is material,
16 and that results in any cash deposit or other security
17 or any amount of applicable antidumping or counter-
18 vailing duties being reduced or not being applied with
19 respect to the merchandise.

20 (6) *SECRETARY.*—The term “Secretary” means
21 the Secretary of the Treasury.

22 (7) *TRADE REMEDY LAWS.*—The term “trade
23 remedy laws” means title VII of the Tariff Act of
24 1930.

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

2 *Pursuant to article 1902 of the North American Free*
3 *Trade Agreement and section 408 of the North American*
4 *Free Trade Agreement Implementation Act (19 U.S.C.*
5 *3438), this title and the amendments made by this title*
6 *shall apply with respect to goods from Canada and Mexico.*

7 **Subtitle A—Actions Relating to**
8 **Enforcement of Trade Remedy Laws**

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

10 *(a) ESTABLISHMENT.—*

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

18 *(2) COMPOSITION.—The Trade Law Remedy En-*
19 *forcement Division shall be composed of—*

20 *(A) headquarters personnel led by a Direc-*
21 *tor, who shall report to the Assistant Commis-*
22 *sioner of the Office of International Trade; and*

23 *(B) a National Targeting and Analysis*
24 *Group dedicated to preventing and countering*
25 *evasion.*

1 (3) *DUTIES.*—*The Trade Remedy Law Enforce-*
2 *ment Division shall be dedicated—*

3 (A) *to the development and administration*
4 *of policies to prevent and counter evasion;*

5 (B) *to direct enforcement and compliance*
6 *assessment activities concerning evasion;*

7 (C) *to the development and conduct of com-*
8 *mercial risk assessment targeting with respect to*
9 *cargo destined for the United States in accord-*
10 *ance with subsection (c);*

11 (D) *to issuing Trade Alerts described in*
12 *subsection (d); and*

13 (E) *to the development of policies for the*
14 *application of single entry and continuous bonds*
15 *for entries of covered merchandise to sufficiently*
16 *protect the collection of antidumping and coun-*
17 *tervailing duties commensurate with the level of*
18 *risk of noncollection.*

19 (b) *DUTIES OF DIRECTOR.*—*The duties of the Director*
20 *of the Trade Remedy Law Enforcement Division shall in-*
21 *clude—*

22 (1) *directing the trade enforcement and compli-*
23 *ance assessment activities of U.S. Customs and Bor-*
24 *der Protection that concern evasion;*

1 (2) *facilitating, promoting, and coordinating co-*
2 *operation and the exchange of information between*
3 *U.S. Customs and Border Protection, U.S. Immigra-*
4 *tion and Customs Enforcement, and other relevant*
5 *agencies regarding evasion;*

6 (3) *notifying on a timely basis the administering*
7 *authority (as defined in section 771(1) of the Tariff*
8 *Act of 1930 (19 U.S.C. 1677(1))) and the Commission*
9 *(as defined in section 771(2) of the Tariff Act of 1930*
10 *(19 U.S.C. 1677(2))) of any finding, determination,*
11 *civil action, or criminal action taken by U.S. Cus-*
12 *toms and Border Protection or other Federal agency*
13 *regarding evasion;*

14 (4) *servicing as the primary liaison between U.S.*
15 *Customs and Border Protection and the public re-*
16 *garding United States Government activities con-*
17 *cerning evasion, including—*

18 (A) *receive and transmit to the appropriate*
19 *U.S. Customs and Border Protection office alle-*
20 *gations from parties of evasion;*

21 (B) *upon request by the party or parties*
22 *that submitted an allegation of evasion, provide*
23 *information to such party or parties on the sta-*
24 *tus of U.S. Customs and Border Protection’s con-*
25 *sideration of the allegation and decision to pur-*

1 *sue or not pursue any administrative inquiries*
2 *or other actions, such as changes in policies, pro-*
3 *cedures, or resource allocation as a result of the*
4 *allegation;*

5 *(C) as needed, request from the party or*
6 *parties that submitted an allegation of evasion*
7 *any additional information that may be relevant*
8 *for U.S. Customs and Border Protection deter-*
9 *mining whether to initiate an administrative in-*
10 *quiry or take any other action regarding the al-*
11 *legation;*

12 *(D) notify on a timely basis the party or*
13 *parties that submitted such an allegation of the*
14 *results of any administrative, civil or criminal*
15 *actions taken by U.S. Customs and Border Pro-*
16 *tection or other Federal agency regarding eva-*
17 *sion as a direct or indirect result of the allega-*
18 *tion;*

19 *(E) upon request, provide technical assist-*
20 *ance and advice to eligible small businesses to*
21 *enable such businesses to prepare and submit al-*
22 *legations of evasion, except that the Director may*
23 *deny assistance if the Director concludes that the*
24 *allegation, if submitted, would not lead to the*

1 *initiation of an administrative inquiry or any*
2 *other action to address the allegation;*

3 *(F) in cooperation with the public, the*
4 *Commercial Customs Operations Advisory Com-*
5 *mittee, the Trade Support Network, and any*
6 *other relevant parties and organizations, develop*
7 *guidelines on the types and nature of informa-*
8 *tion that may be provided in allegations of eva-*
9 *sion; and*

10 *(G) regularly consult with the public, the*
11 *Commercial Customs Operations Advisory Com-*
12 *mittee, the Trade Support Network, and any*
13 *other relevant parties and organizations regard-*
14 *ing the development and implementation of regu-*
15 *lations, interpretations, and policies related to*
16 *countering evasion.*

17 *(c) PREVENTING AND COUNTERING EVASION OF THE*
18 *TRADE REMEDY LAWS.—In carrying out its duties with*
19 *respect to preventing and countering evasion, the National*
20 *Targeting and Analysis Group dedicated to preventing and*
21 *countering evasion shall—*

22 *(1) establish targeted risk assessment methodolo-*
23 *gies and standards—*

1 (A) for evaluating the risk that cargo des-
2 tined for the United States may constitute evad-
3 ing covered merchandise; and

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

6 (2) to the extent practicable and otherwise au-
7 thorized by law, use information available from the
8 Automated Commercial System, the Automated Com-
9 mercial Environment computer system, the Auto-
10 mated Targeting System, the Automated Export Sys-
11 tem, the International Trade Data System, and the
12 TECS, and any similar and successor systems, to ad-
13 minister the methodologies and standards established
14 under paragraph (1).

15 (d) *TRADE ALERTS.*—Based upon the application of
16 the targeted risk assessment methodologies and standards
17 established under subsection (c), the Director of the Trade
18 Remedy Law Enforcement Division shall issue Trade Alerts
19 or other such means of notification to directors of United
20 States ports of entry directing further inspection, physical
21 examination, or testing of merchandise to ensure compli-
22 ance with the trade remedy laws and to require additional
23 bonds, cash deposits, or other security to ensure collection
24 of any duties, taxes and fees owed.

1 **SEC. 412. COLLECTION OF INFORMATION ON EVASION OF**
2 **TRADE REMEDY LAWS.**

3 (a) *AUTHORITY TO COLLECT INFORMATION.*—To de-
4 termine whether covered merchandise is being entered into
5 the customs territory of the United States through evasion,
6 the Secretary, acting through the Commissioner—

7 (1) shall exercise all existing authorities to collect
8 information needed to make the determination; and

9 (2) may collect such additional information as is
10 necessary to make the determination through such
11 methods as the Commissioner considers appropriate,
12 including by issuing questionnaires with respect to
13 the entry or entries at issue to—

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

16 (B) a person who is alleged to have entered
17 the covered merchandise into the customs terri-
18 tory of the United States through evasion; or

19 (C) any other person who is determined to
20 have information relevant to the allegation of
21 entry of covered merchandise into the customs
22 territory of the United States through evasion.

23 (b) *ADVERSE INFERENCE.*—

24 (1) *IN GENERAL.*—If the Secretary finds that a
25 person who filed an allegation, a person alleged to
26 have entered covered merchandise into the customs

1 *territory of the United States through evasion, or a*
2 *foreign producer or exporter of covered merchandise*
3 *that is alleged to have entered into the customs terri-*
4 *tory of the United States through evasion, has failed*
5 *to cooperate by not acting to the best of the person's*
6 *ability to comply with a request for information, the*
7 *Secretary may, in making a determination whether*
8 *an entry or entries of covered merchandise may con-*
9 *stitute merchandise that is entered into the customs*
10 *territory of the United States through evasion, use an*
11 *inference that is adverse to the interests of that person*
12 *in selecting from among the facts otherwise available*
13 *to determine whether evasion has occurred.*

14 (2) *ADVERSE INFERENCE DESCRIBED.—An ad-*
15 *verse inference used under paragraph (1) may include*
16 *reliance on information derived from—*

17 (A) *the allegation of evasion of the trade*
18 *remedy laws, if any, submitted to U.S. Customs*
19 *and Border Protection;*

20 (B) *a determination by the Commissioner*
21 *in another investigation, proceeding, or other ac-*
22 *tion regarding evasion of the unfair trade laws;*

23 *or*

24 (C) *any other available information.*

1 **SEC. 413. ACCESS TO INFORMATION.**

2 (a) *IN GENERAL.*—Section 777(b)(1)(A)(ii) of the Tar-
3 iff Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is amended
4 by inserting “negligence, gross negligence, or” after “regard-
5 ing”.

6 (b) *ADDITIONAL INFORMATION.*—Notwithstanding any
7 other provision of law, the Secretary is authorized to pro-
8 vide to the Secretary of Commerce or the United States
9 International Trade Commission any information that is
10 necessary to enable the Secretary of Commerce or the United
11 States International Trade Commission to assist the Sec-
12 retary to identify, through risk assessment targeting or oth-
13 erwise, covered merchandise that is entered into the customs
14 territory of the United States through evasion.

15 **SEC. 414. COOPERATION WITH FOREIGN COUNTRIES ON**
16 **PREVENTING EVASION OF TRADE REMEDY**
17 **LAWS.**

18 (a) *BILATERAL AGREEMENTS.*—

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

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

4 (A) *On the request of the importing coun-*
5 *try, the exporting country shall provide, con-*
6 *sistent with its laws, regulations, and proce-*
7 *dures, production, trade, and transit documents*
8 *and other information necessary to determine*
9 *whether an entry or entries exported from the ex-*
10 *porting country are subject to the importing*
11 *country's trade remedy laws.*

12 (B) *On the written request of the importing*
13 *country, the exporting country shall conduct a*
14 *verification for purposes of enabling the import-*
15 *ing country to make a determination described*
16 *in subparagraph (A).*

17 (C) *The exporting country may allow the*
18 *importing country to participate in a*
19 *verification described in subparagraph (B), in-*
20 *cluding through a site visit.*

21 (D) *If the exporting country does not allow*
22 *participation of the importing country in a*
23 *verification described in subparagraph (B), the*
24 *importing country may take this fact into con-*
25 *sideration in its trade enforcement and compli-*

1 *ance assessment activities regarding the compli-*
2 *ance of the exporting country's exports with the*
3 *importing country's trade remedy laws.*

4 **(b) CONSIDERATION.**—*The Commissioner is authorized*
5 *to take into consideration whether a country is a signatory*
6 *to a bilateral agreement described in subsection (a) and the*
7 *extent to which the country is cooperating under the bilat-*
8 *eral agreement for purposes of trade enforcement and com-*
9 *pliance assessment activities of U.S. Customs and Border*
10 *Protection that concern evasion by such country's exports.*

11 **(c) REPORT.**—*Not later than December 31 of each year*
12 *beginning after the date of the enactment of this Act, the*
13 *Secretary shall submit to the appropriate congressional*
14 *committees a report summarizing—*

15 **(1)** *the status of any ongoing negotiations of bi-*
16 *lateral agreements described in subsection (a), includ-*
17 *ing the identities of the countries involved in such ne-*
18 *gotiations;*

19 **(2)** *the terms of any completed bilateral agree-*
20 *ments described in subsection (a); and*

21 **(3)** *bilateral cooperation and other activities con-*
22 *ducted pursuant to or enabled by any completed bilat-*
23 *eral agreements described in subsection (a).*

1 **SEC. 415. TRADE NEGOTIATING OBJECTIVES.**

2 *The principal negotiating objectives of the United*
3 *States shall include obtaining the objectives of the bilateral*
4 *agreements described under section 414(a) for any trade*
5 *agreements under negotiation as of the date of the enact-*
6 *ment of this Act or future trade agreement negotiations.*

7 ***Subtitle B—Investigation of***
8 ***Evasion of Trade Remedy Laws***

9 **SEC. 421. PROCEDURES FOR INVESTIGATION OF EVASION**
10 **OF ANTIDUMPING AND COUNTERVAILING**
11 **DUTY ORDERS.**

12 *(a) IN GENERAL.—Title VII of the Tariff Act of 1930*
13 *(19 U.S.C. 1671 et seq.) is amended by inserting after sec-*
14 *tion 781 the following:*

15 **“SEC. 781A. PROCEDURES FOR PREVENTION OF EVASION**
16 **OF ANTIDUMPING AND COUNTERVAILING**
17 **DUTY ORDERS.**

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

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

22 *“(2) COMMISSIONER.—The term ‘Commissioner’*
23 *means the Commissioner of U.S. Customs and Border*
24 *Protection.*

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

4 “(A) *a countervailing duty order issued*
5 *under section 706; or*

6 “(B) *an antidumping duty order issued*
7 *under section 736.*

8 “(4) *EVASION.*—

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

21 “(B) *EXCEPTION FOR CLERICAL ERROR.*—

22 “(i) *IN GENERAL.*—*Except as provided*
23 *in clause (ii), the term ‘evasion’ does not*
24 *include entering covered merchandise into*

1 *the customs territory of the United States*
2 *by means of—*

3 “(I) *a document or electronically*
4 *transmitted data or information, writ-*
5 *ten or oral statement, or act that is*
6 *false as a result of a clerical error; or*

7 “(II) *an omission that results*
8 *from a clerical error.*

9 “(ii) *PATTERNS OF NEGLIGENT CON-*
10 *DUCT.—If the administering authority de-*
11 *termines that a person has entered covered*
12 *merchandise into the customs territory of*
13 *the United States by means of a clerical*
14 *error referred to in subclause (I) or (II) of*
15 *clause (i) and that the clerical error is part*
16 *of a pattern of negligent conduct on the*
17 *part of that person, the administering au-*
18 *thority may determine, notwithstanding*
19 *clause (i), that the person has entered such*
20 *covered merchandise into the customs terri-*
21 *tory of the United States by means of eva-*
22 *sion.*

23 “(iii) *ELECTRONIC REPETITION OF ER-*
24 *RORS.—For purposes of clause (ii), the mere*
25 *unintentional repetition by an electronic*

1 *system of an initial clerical error does not*
2 *constitute a pattern of negligent conduct.*

3 “(iv) *RULE OF CONSTRUCTION.*—*A de-*
4 *termination by the administering authority*
5 *that a person has entered covered merchan-*
6 *dise into the customs territory of the United*
7 *States by means of a clerical error referred*
8 *to in subclause (I) or (II) of clause (i) rath-*
9 *er than by means of evasion shall not be*
10 *construed to excuse that person from the*
11 *payment of any duties applicable to the*
12 *merchandise.*

13 “(b) *INVESTIGATION BY ADMINISTERING AUTHOR-*
14 *ITY.*—

15 “(1) *PROCEDURES FOR INITIATING INVESTIGA-*
16 *TIONS.*—

17 “(A) *INITIATION BY ADMINISTERING AU-*
18 *THORITY.*—*An investigation under this sub-*
19 *section shall be initiated with respect to mer-*
20 *chandise imported into the United States when-*
21 *ever the administering authority determines,*
22 *from information available to the administering*
23 *authority, that an investigation is warranted*
24 *with respect to whether the merchandise is cov-*
25 *ered merchandise that has entered into the cus-*

1 *toms territory of the United States by means of*
2 *evasion.*

3 “(B) *INITIATION BY PETITION OR REFER-*
4 *RAL.—*

5 “(i) *IN GENERAL.—The administering*
6 *authority shall determine whether to ini-*
7 *tiate an investigation under this subpara-*
8 *graph not later than 30 days after the date*
9 *on which the administering authority re-*
10 *ceives a petition described in clause (ii) or*
11 *a referral described in clause (iii).*

12 “(ii) *PETITION DESCRIBED.—A peti-*
13 *tion described in this clause is a petition*
14 *that—*

15 “(I) *is filed with the admin-*
16 *istering authority by an interested*
17 *party specified in subparagraph (A),*
18 *(C), (D), (E), (F), or (G) of section*
19 *771(9);*

20 “(II) *alleges that merchandise im-*
21 *ported into the United States is cov-*
22 *ered merchandise that has entered into*
23 *the customs territory of the United*
24 *States by means of evasion; and*

1 “(III) is accompanied by infor-
2 mation reasonably available to the pe-
3 titioner supporting those allegations.

4 “(iii) REFERRAL DESCRIBED.—A re-
5 ferral described in this clause is a referral
6 made by the Commissioner pursuant to sub-
7 section (c)(1).

8 “(2) TIME LIMITS FOR DETERMINATIONS.—

9 “(A) PRELIMINARY DETERMINATION.—

10 “(i) IN GENERAL.—Not later than 90
11 days after the administering authority ini-
12 tiates an investigation under paragraph (1)
13 with respect to merchandise, the admin-
14 istering authority shall issue a preliminary
15 determination, based on information avail-
16 able to the administering authority at the
17 time of the determination, with respect to
18 whether there is a reasonable basis to believe
19 or suspect that the merchandise is covered
20 merchandise that has entered into the cus-
21 toms territory of the United States by
22 means of evasion.

23 “(ii) EXPEDITED PROCEDURES.—If the
24 administering authority determines that ex-
25 pedited action is warranted with respect to

1 *an investigation initiated under paragraph*
2 *(1), the administering authority may pub-*
3 *lish the notice of initiation of the investiga-*
4 *tion and the notice of the preliminary deter-*
5 *mination in the Federal Register at the*
6 *same time.*

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

17 “(3) *ACCESS TO INFORMATION.*—

18 “(A) *ENTRY DOCUMENTS, RECORDS, AND*
19 *OTHER INFORMATION.*—*Not later than 10 days*
20 *after receiving a request from the administering*
21 *authority with respect to merchandise that is the*
22 *subject of an investigation under paragraph (1),*
23 *the Commissioner shall transmit to the admin-*
24 *istering authority copies of the documentation*
25 *and information required by section 484(a)(1)*

1 *with respect to the entry of the merchandise, as*
2 *well as any other documentation or information*
3 *requested by the administering authority.*

4 “(B) *ACCESS OF INTERESTED PARTIES.—*
5 *Not later than 10 business days after the date on*
6 *which the administering authority initiates an*
7 *investigation under paragraph (1) with respect*
8 *to merchandise, the administering authority*
9 *shall provide to the authorized representative of*
10 *each interested party that filed a petition under*
11 *paragraph (1) or otherwise participates in a*
12 *proceeding, pursuant to a protective order, the*
13 *copies of the entry documentation and any other*
14 *information received by the administering au-*
15 *thority under subparagraph (A).*

16 “(C) *BUSINESS PROPRIETARY INFORMATION*
17 *FROM PRIOR SEGMENTS.—If an authorized rep-*
18 *resentative of an interested party participating*
19 *in an investigation under paragraph (1) has ac-*
20 *cess to business proprietary information released*
21 *pursuant to an administrative protective order*
22 *in a proceeding under subtitle A, B, or C of title*
23 *VII of the Tariff Act of 1930 that is relevant to*
24 *the investigation conducted under paragraph (1),*
25 *that authorized representative may submit such*

1 *information to the administering authority for*
2 *its consideration in the context of the investiga-*
3 *tion conducted under paragraph (1).*

4 *“(4) AUTHORITY TO COLLECT AND VERIFY ADDI-*
5 *TIONAL INFORMATION.—In making a determination*
6 *under paragraph (2) with respect to covered merchan-*
7 *dise, the administering authority may collect such ad-*
8 *ditional information as is necessary to make the de-*
9 *termination through such methods as the admin-*
10 *istering authority considers appropriate, including*
11 *by—*

12 *“(A) issuing a questionnaire with respect to*
13 *such covered merchandise to—*

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

19 *“(ii) a person alleged to have entered*
20 *such covered merchandise into the customs*
21 *territory of the United States by means of*
22 *evasion;*

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

1 “(iv) the government of a country from
2 which such covered merchandise was ex-
3 ported;

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

7 “(C) requesting—

8 “(i) that the Commissioner provide
9 any information and data available to U.S.
10 Customs and Border Protection, and

11 “(ii) that the Commissioner gather ad-
12 ditional necessary information from the im-
13 porter of covered merchandise and other rel-
14 evant parties.

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

1 “(6) *EFFECT OF AFFIRMATIVE PRELIMINARY DE-*
2 *TERMINATION.—If the administering authority makes*
3 *a preliminary determination under paragraph (2)(A)*
4 *that merchandise is covered merchandise that has en-*
5 *tered into the customs territory of the United States*
6 *by means of evasion, the administering authority*
7 *shall instruct U.S. Customs and Border Protection—*

8 “(A) *to suspend liquidation of each entry of*
9 *the merchandise that—*

10 “(i) *enters on or after the date of the*
11 *preliminary determination; or*

12 “(ii) *enters before that date, if the liq-*
13 *uidation of the entry is not final on that*
14 *date; and*

15 “(B) *to require the posting of a cash deposit*
16 *for each entry of the merchandise in an amount*
17 *determined pursuant to the order, or administra-*
18 *tive review conducted under section 751, that ap-*
19 *plies to the merchandise.*

20 “(7) *EFFECT OF AFFIRMATIVE FINAL DETER-*
21 *MINATION.—*

22 “(A) *IN GENERAL.—If the administering*
23 *authority makes a final determination under*
24 *paragraph (2)(B) that merchandise is covered*
25 *merchandise that has entered into the customs*

1 *territory of the United States by means of eva-*
2 *sion, the administering authority shall instruct*
3 *U.S. Customs and Border Protection—*

4 “(i) *to assess duties on the merchandise*
5 *in an amount determined pursuant to the*
6 *order, or administrative review conducted*
7 *under section 751, that applies to the mer-*
8 *chandise;*

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

15 “(iii) *to review and reassess the*
16 *amount of bond or other security the im-*
17 *porter is required to post for such merchan-*
18 *dise entered on or after the date of the final*
19 *determination to ensure the protection of*
20 *revenue and compliance with the law.*

21 “(B) *ADDITIONAL AUTHORITY.—If the ad-*
22 *ministering authority makes a final determina-*
23 *tion under paragraph (2)(B) that merchandise is*
24 *covered merchandise that has entered into the*
25 *customs territory of the United States by means*

1 *of evasion, the administering authority may in-*
2 *struct U.S. Customs and Border Protection to re-*
3 *quire the importer of the merchandise to post a*
4 *cash deposit or bond on such merchandise en-*
5 *tered on or after the date of the final determina-*
6 *tion in an amount the administering authority*
7 *determines in the final determination to be owed*
8 *with respect to the merchandise.*

9 “(8) *EFFECT OF NEGATIVE FINAL DETERMINA-*
10 *TION.—If the administering authority makes a final*
11 *determination under paragraph (2)(B) that merchan-*
12 *dise is not covered merchandise that has entered into*
13 *the customs territory of the United States by means*
14 *of evasion, the administering authority shall termi-*
15 *nate the suspension of liquidation and refund any*
16 *cash deposit imposed pursuant to paragraph (6) with*
17 *respect to the merchandise.*

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

1 *chandise into the customs territory of the United*
2 *States in accordance with all applicable laws and*
3 *regulations.*

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

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

23 “(12) *REFERRALS TO OTHER AGENCIES.—*

24 “(A) *AFTER PRELIMINARY DETERMINA-*
25 *TION.—Notwithstanding section 777 and subject*

1 to subparagraph (C), when the administering
2 authority makes an affirmative preliminary de-
3 termination under paragraph (2)(A), the admin-
4 istering authority shall—

5 “(i) transmit the administrative record
6 to the Commissioner for such additional ac-
7 tion as the Commissioner determines appro-
8 priate, including proceedings under section
9 592; and

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

13 “(B) *AFTER FINAL DETERMINATION.*—Not-
14 withstanding section 777 and subject to subpara-
15 graph (C), when the administering authority
16 makes an affirmative final determination under
17 paragraph (2)(B), the administering authority
18 shall—

19 “(i) transmit the complete administra-
20 tive record to the Commissioner; and

21 “(ii) at the request of the head of an-
22 other agency, transmit the complete admin-
23 istrative record to the head of that agency.

24 “(c) *REFERRAL BY U.S. CUSTOMS AND BORDER PRO-*
25 *TECTION.*—In the event the Commissioner receives informa-

1 *tion that a person has entered covered merchandise into the*
2 *customs territory of the United States through evasion, but*
3 *is not able to determine whether the merchandise is in fact*
4 *covered merchandise, the Commissioner shall—*

5 “(1) *refer the matter to the administering au-*
6 *thority for additional proceedings under subsection*
7 *(b); and*

8 “(2) *transmit to the administering authority—*

9 “(A) *copies of the entry documents and in-*
10 *formation required by section 484(a)(1) relating*
11 *to the merchandise; and*

12 “(B) *any additional records or information*
13 *that the Commissioner considers appropriate.*

14 “(d) *COOPERATION BETWEEN U.S. CUSTOMS AND*
15 *BORDER PROTECTION AND THE DEPARTMENT OF COM-*
16 *MERCE.—*

17 “(1) *NOTIFICATION OF INVESTIGATIONS.—Upon*
18 *receiving a petition and upon initiating an investiga-*
19 *tion under subsection (b), the administering authority*
20 *shall notify the Commissioner.*

21 “(2) *PROCEDURES FOR COOPERATION.—Not*
22 *later than 180 days after the date of the enactment*
23 *of the Trade Facilitation and Trade Enforcement Act*
24 *of 2015, the Commissioner and the administering au-*
25 *thority shall establish procedures to ensure maximum*

1 *cooperation and communication between U.S. Cus-*
2 *toms and Border Protection and the administering*
3 *authority in order to quickly, efficiently, and accu-*
4 *rately investigate allegations of evasion of anti-*
5 *dumping and countervailing duty orders.*

6 “(e) *ANNUAL REPORT ON PREVENTING EVASION OF*
7 *ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.—*

8 “(1) *IN GENERAL.—Not later than February 28*
9 *of each year beginning in 2016, the Under Secretary*
10 *for International Trade of the Department of Com-*
11 *merce shall submit to the Committee on Finance and*
12 *the Committee on Appropriations of the Senate and*
13 *the Committee on Ways and Means and the Com-*
14 *mittee on Appropriations of the House of Representa-*
15 *tives a report on the efforts being taken under sub-*
16 *section (b) to prevent evasion of antidumping and*
17 *countervailing duty orders.*

18 “(2) *CONTENTS.—Each report required by para-*
19 *graph (1) shall include, for the calendar year pre-*
20 *ceding the submission of the report—*

21 “(A)(i) *the number of investigations initi-*
22 *ated pursuant to subsection (b); and*

23 “(ii) *a description of such investigations,*
24 *including—*

1 “(I) the results of such investigations;

2 and

3 “(II) the amount of antidumping and
4 countervailing duties collected as a result of
5 such investigations; and

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

8 (b) *TECHNICAL AMENDMENT.*—The table of contents
9 for title VII of the Tariff Act of 1930 is amended by insert-
10 ing after the item relating to section 781 the following:

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

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

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

15 (2) in subparagraph (B), by inserting at the end
16 the following:

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

19 (d) *REGULATIONS.*—Not later than 180 days after the
20 date of the enactment of this Act—

21 (1) the Secretary of Commerce shall prescribe
22 such regulations as may be necessary to carry out
23 subsection (b) of section 781A of the Tariff Act of
24 1930 (as added by subsection (a) of this section); and

1 (2) *the Commissioner shall prescribe such regula-*
2 *tions as may be necessary to carry out subsection (c)*
3 *of such section 781A.*

4 (e) *EFFECTIVE DATE.*—*The amendments made by this*
5 *section shall—*

6 (1) *take effect on the date that is 180 days after*
7 *the date of the enactment of this Act; and*

8 (2) *apply with respect to merchandise entered on*
9 *or after such date of enactment.*

10 **SEC. 422. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**

11 *Not later than 2 years after the date of the enactment*
12 *of this Act, the Comptroller General of the United States*
13 *shall submit to the Committee on Finance and the Com-*
14 *mittee on Appropriations of the Senate and the Committee*
15 *on Ways and Means and the Committee on Appropriations*
16 *of the House of Representatives a report assessing the effec-*
17 *tiveness of—*

18 (1) *the provisions of, and amendments made by,*
19 *this subtitle; and*

20 (2) *the actions taken and procedures developed*
21 *by the Secretary of Commerce and the Commissioner*
22 *pursuant to such provisions and amendments to pre-*
23 *vent evasion of antidumping and countervailing duty*
24 *orders under title VII of the Tariff Act of 1930 (19*
25 *U.S.C. 1671 et seq.).*

1 **Subtitle C—Other Matters**

2 **SEC. 431. ALLOCATION AND TRAINING OF PERSONNEL.**

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

5 (1) *employs sufficient personnel who have exper-*
6 *tise in, and responsibility for, preventing and inves-*
7 *tigating the entry of covered merchandise into the*
8 *customs territory of the United States through eva-*
9 *sion;*

10 (2) *on the basis of risk assessment metrics, as-*
11 *signs sufficient personnel with primary responsibility*
12 *for preventing the entry of covered merchandise into*
13 *the customs territory of the United States through*
14 *evasion to the ports of entry in the United States at*
15 *which the Commissioner determines potential evasion*
16 *presents the most substantial threats to the revenue of*
17 *the United States; and*

18 (3) *provides adequate training to relevant per-*
19 *sonnel to increase expertise and effectiveness in the*
20 *prevention and identification of entries of covered*
21 *merchandise into the customs territory of the United*
22 *States through evasion.*

1 **SEC. 432. ANNUAL REPORT ON PREVENTION OF EVASION**
2 **OF ANTIDUMPING AND COUNTERVAILING**
3 **DUTY ORDERS.**

4 (a) *IN GENERAL.*—Not later than February 28 of each
5 year, beginning in 2016, the Commissioner, in consultation
6 with the Secretary of Commerce and the Director of U.S.
7 Immigration and Customs Enforcement, shall submit to the
8 appropriate congressional committees a report on the efforts
9 being taken to prevent and investigate evasion.

10 (b) *CONTENTS.*—Each report required under sub-
11 section (a) shall include—

12 (1) *for the calendar year preceding the submis-*
13 *sion of the report—*

14 (A) *a summary of the efforts of U.S. Cus-*
15 *oms and Border Protection to prevent and iden-*
16 *tify evasion;*

17 (B) *the number of allegations of evasion re-*
18 *ceived and the number of allegations of evasion*
19 *resulting in any administrative, civil, or crimi-*
20 *nal actions by U.S. Customs and Border Protec-*
21 *tion or any other agency;*

22 (C) *a summary of the completed adminis-*
23 *trative inquiries of evasion, including the num-*
24 *ber and nature of the inquiries initiated, con-*
25 *ducted, or completed, as well as their resolution;*

1 (D) with respect to inquiries that lead to
2 issuance of a penalty notice, the penalty
3 amounts;

4 (E) the amounts of antidumping and coun-
5 tervailing duties collected as a result of any ac-
6 tions by U.S. Customs and Border Protection or
7 any other agency;

8 (F) a description of the allocation of per-
9 sonnel and other resources of U.S. Customs and
10 Border Protection and U.S. Immigration and
11 Customs Enforcement to prevent, identify, and
12 investigate evasion, including any assessments
13 conducted regarding the allocation of such per-
14 sonnel and resources; and

15 (G) a description of training conducted to
16 increase expertise and effectiveness in the preven-
17 tion, identification, and investigation of evasion;
18 and

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

22 (A) the specific guidelines, policies, and
23 practices used by U.S. Customs and Border Pro-
24 tection to ensure that allegations of evasion are

1 *promptly evaluated and acted upon in a timely*
2 *manner;*

3 *(B) an evaluation of the efficacy of such ex-*
4 *isting guidelines, policies, and practices;*

5 *(C) identification of any changes since the*
6 *last report that have materially improved or re-*
7 *duced the effectiveness of U.S. Customs and Bor-*
8 *der Protection to prevent and identify evasion;*

9 *(D) a description of the development and*
10 *implementation of policies for the application of*
11 *single entry and continuous bonds for entries of*
12 *covered merchandise to sufficiently protect the*
13 *collection of antidumping and countervailing du-*
14 *ties commensurate with the level of risk on non-*
15 *collection;*

16 *(E) the processes and procedures for in-*
17 *creased cooperation and information sharing*
18 *with the Department of Commerce, U.S. Immi-*
19 *gration and Customs Enforcement, and any*
20 *other relevant Federal agencies to prevent and*
21 *identify evasion; and*

22 *(F) identification of any recommended pol-*
23 *icy changes of other Federal agencies or legisla-*
24 *tive changes to improve the effectiveness of U.S.*

1 *Customs and Border Protection to prevent and*
2 *identify evasion.*

3 **SEC. 433. ADDRESSING CIRCUMVENTION BY NEW SHIPPERS.**

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

6 (1) *by striking clause (iii);*

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

8 *and*

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

11 “(iv) *DETERMINATIONS BASED ON*
12 *BONAFIDE SALES.—Any weighted average*
13 *dumping margin or individual counter-*
14 *vailing duty rate determined for an ex-*
15 *porter or producer in a review conducted*
16 *under clause (i) shall be based solely on the*
17 *bona fide United States sales of an exporter*
18 *or producer, as the case may be, made dur-*
19 *ing the period covered by the review. In de-*
20 *termining whether the United States sales of*
21 *an exporter or producer made during the*
22 *period covered by the review were bona fide,*
23 *the administering authority shall consider,*
24 *depending on the circumstances sur-*
25 *rounding such sales—*

- 1 “(I) the prices of such sales;
- 2 “(II) whether such sales were
- 3 made in commercial quantities;
- 4 “(III) the timing of such sales;
- 5 “(IV) the expenses arising from
- 6 such sales;
- 7 “(V) whether the subject merchan-
- 8 dise involved in such sales was resold
- 9 in the United States at a profit;
- 10 “(VI) whether such sales were
- 11 made on an arms-length basis; and
- 12 “(VII) any other factor the ad-
- 13 ministering authority determines to be
- 14 relevant as to whether such sales are,
- 15 or are not, likely to be typical of those
- 16 the exporter or producer will make
- 17 after completion of the review.”.

18 **TITLE V—IMPROVEMENTS TO**

19 **ANTIDUMPING AND COUN-**

20 **TERVAILING DUTY LAWS**

21 **SEC. 501. SHORT TITLE.**

22 *This title may be cited as the “American Trade En-*

23 *forcement Effectiveness Act”.*

1 **SEC. 502. CONSEQUENCES OF FAILURE TO COOPERATE**
2 **WITH A REQUEST FOR INFORMATION IN A**
3 **PROCEEDING.**

4 *Section 776 of the Tariff Act of 1930 (19 U.S.C. 1677e)*
5 *is amended—*

6 *(1) in subsection (b)—*

7 *(A) by redesignating paragraphs (1)*
8 *through (4) as subparagraphs (A) through (D),*
9 *respectively, and by moving such subparagraphs,*
10 *as so redesignated, 2 ems to the right;*

11 *(B) by striking “ADVERSE INFERENCES.—*
12 *If” and inserting the following: “ADVERSE IN-*
13 *FERENCES.—*

14 *“(1) IN GENERAL.—If”;*

15 *(C) by striking “under this title, may use”*
16 *and inserting the following: “under this title—*
17 *“(A) may use”; and*

18 *(D) by striking “facts otherwise available.*
19 *Such adverse inference may include” and insert-*
20 *ing the following: “facts otherwise available; and*

21 *“(B) is not required to determine, or make*
22 *any adjustments to, a countervailable subsidy*
23 *rate or weighted average dumping margin based*
24 *on any assumptions about information the inter-*
25 *ested party would have provided if the interested*

1 party had complied with the request for informa-
2 tion.

3 “(2) *POTENTIAL SOURCES OF INFORMATION FOR*
4 *ADVERSE INFERENCES.—An adverse inference under*
5 *paragraph (1)(A) may include”;*

6 (2) *in subsection (c)—*

7 (A) *by striking “CORROBORATION OF SEC-*
8 *ONDARY INFORMATION.—When the” and insert-*
9 *ing the following: “CORROBORATION OF SEC-*
10 *ONDARY INFORMATION.—*

11 (1) *IN GENERAL.—Except as provided in para-*
12 *graph (2), when the”;* and

13 (B) *by adding at the end the following:*

14 (2) *EXCEPTION.—The administrative authority*
15 *and the Commission shall not be required to corrobo-*
16 *rate any dumping margin or countervailing duty ap-*
17 *plied in a separate segment of the same proceeding.”;*
18 and

19 (3) *by adding at the end the following:*

20 “(d) *SUBSIDY RATES AND DUMPING MARGINS IN AD-*
21 *VERSE INFERENCE DETERMINATIONS.—*

22 (1) *IN GENERAL.—If the administering author-*
23 *ity uses an inference that is adverse to the interests*
24 *of a party under subsection (b)(1)(A) in selecting*

1 *among the facts otherwise available, the admin-*
2 *istering authority may—*

3 “(A) *in the case of a countervailing duty*
4 *proceeding—*

5 “(i) *use a countervailable subsidy rate*
6 *applied for the same or similar program in*
7 *a countervailing duty proceeding involving*
8 *the same country, or*

9 “(ii) *if there is no same or similar*
10 *program, use a countervailable subsidy rate*
11 *for a subsidy program from a proceeding*
12 *that the administering authority considers*
13 *reasonable to use, and*

14 “(B) *in the case of an antidumping duty*
15 *proceeding, use any dumping margin from any*
16 *segment of the proceeding under the applicable*
17 *antidumping order.*

18 “(2) *DISCRETION TO APPLY HIGHEST RATE.—In*
19 *carrying out paragraph (1), the administering au-*
20 *thority may apply any of the countervailable subsidy*
21 *rates or dumping margins specified under that para-*
22 *graph, including the highest such rate or margin,*
23 *based on the evaluation by the administering author-*
24 *ity of the situation that resulted in the administering*

1 *authority using an adverse inference in selecting*
2 *among the facts otherwise available.*

3 “(3) *NO OBLIGATION TO MAKE CERTAIN ESTI-*
4 *MATES OR ADDRESS CERTAIN CLAIMS.—If the admin-*
5 *istering authority uses an adverse inference under*
6 *subsection (b)(1)(A) in selecting among the facts oth-*
7 *erwise available, the administering authority is not*
8 *required, for purposes of subsection (c) or for any*
9 *other purpose—*

10 “(A) *to estimate what the countervailable*
11 *subsidy rate or dumping margin would have*
12 *been if the interested party found to have failed*
13 *to cooperate under subsection (b)(1) had cooper-*
14 *ated, or*

15 “(B) *to demonstrate that the countervailable*
16 *subsidy rate or dumping margin used by the ad-*
17 *ministering authority reflects an alleged com-*
18 *mercial reality of the interested party.”.*

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

20 (a) *EFFECT OF PROFITABILITY OF DOMESTIC INDUS-*
21 *TRIES.—Section 771(7) of the Tariff Act of 1930 (19 U.S.C.*
22 *1677(7)) is amended by adding at the end the following:*

23 “(J) *EFFECT OF PROFITABILITY.—The*
24 *Commission may not determine that there is no*
25 *material injury or threat of material injury to*

1 *an industry in the United States merely because*
2 *that industry is profitable or because the per-*
3 *formance of that industry has recently im-*
4 *proved.”.*

5 **(b) EVALUATION OF IMPACT ON DOMESTIC INDUSTRY**
6 **IN DETERMINATION OF MATERIAL INJURY.—Subclause (I)**
7 **of section 771(7)(C)(iii) of the Tariff Act of 1930 (19 U.S.C.**
8 **1677(7)(C)(iii)) is amended to read as follows:**

9 *“(I) actual and potential decline*
10 *in output, sales, market share, gross*
11 *profits, operating profits, net profits,*
12 *ability to service debt, productivity, re-*
13 *turn on investments, return on assets,*
14 *and utilization of capacity,”.*

15 **(c) CAPTIVE PRODUCTION.—Section 771(7)(C)(iv) of**
16 **the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is amend-**
17 **ed—**

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

20 *(2) in subclause (II), by striking “, and” and in-*
21 *serting a comma; and*

22 *(3) by striking subclause (III).*

1 **SEC. 504. PARTICULAR MARKET SITUATION.**

2 (a) *DEFINITION OF ORDINARY COURSE OF TRADE.*—
3 Section 771(15) of the Tariff Act of 1930 (19 U.S.C.
4 1677(15)) is amended by adding at the end the following:

5 “(C) Situations in which the administering
6 authority determines that the particular market
7 situation prevents a proper comparison with the
8 export price or constructed export price.”.

9 (b) *DEFINITION OF NORMAL VALUE.*—Section
10 773(a)(1)(B)(ii)(III) of the Tariff Act of 1930 (19 U.S.C.
11 1677b(a)(1)(B)(ii)(III)) is amended by striking “in such
12 other country.”.

13 (c) *DEFINITION OF CONSTRUCTED VALUE.*—Section
14 773(e) of the Tariff Act of 1930 (19 U.S.C. 1677b(e)) is
15 amended—

16 (1) in paragraph (1), by striking “business” and
17 inserting “trade”; and

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

20 “For purposes of paragraph (1), if a particular market sit-
21 uation exists such that the cost of materials and fabrication
22 or other processing of any kind does not accurately reflect
23 the cost of production in the ordinary course of trade, the
24 administering authority may use another calculation meth-
25 odology under this subtitle or any other calculation method-
26 ology. For purposes of paragraph (1), the cost of materials

1 *shall be determined without regard to any internal tax in*
 2 *the exporting country imposed on such materials or their*
 3 *disposition that is remitted or refunded upon exportation*
 4 *of the subject merchandise produced from such materials.”.*

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

6 (a) *INVESTIGATION OF BELOW-COST SALES.—Section*
 7 *773(b)(2) of the Tariff Act of 1930 (19 U.S.C. 1677b(b)(2))*
 8 *is amended by striking subparagraph (A) and inserting the*
 9 *following:*

10 “(A) *REASONABLE GROUNDS TO BELIEVE*
 11 *OR SUSPECT.—*

12 “(i) *REVIEW.—In a review conducted*
 13 *under section 751 involving a specific ex-*
 14 *porter, there are reasonable grounds to be-*
 15 *lieve or suspect that sales of the foreign like*
 16 *product have been made at prices that are*
 17 *less than the cost of production of the prod-*
 18 *uct if the administering authority dis-*
 19 *regarded some or all of the exporter’s sales*
 20 *pursuant to paragraph (1) in the investiga-*
 21 *tion or, if a review has been completed, in*
 22 *the most recently completed review.*

23 “(ii) *REQUESTS FOR INFORMATION.—*
 24 *In an investigation initiated under section*
 25 *732 or a review conducted under section*

1 751, the administering authority shall re-
2 quest information necessary to calculate the
3 constructed value and cost of production
4 under subsections (e) and (f) to determine
5 whether there are reasonable grounds to be-
6 lieve or suspect that sales of the foreign like
7 product have been made at prices that rep-
8 resent less than the cost of production of the
9 product.”.

10 (b) *PRICES AND COSTS IN NONMARKET ECONOMIES.*—
11 Section 773(c) of the Tariff Act of 1930 (19 U.S.C.
12 1677b(c)) is amended by adding at the end the following:

13 “(5) *DISCRETION TO DISREGARD CERTAIN PRICE*
14 *OR COST VALUES.*—In valuing the factors of produc-
15 tion under paragraph (1) for the subject merchandise,
16 the administering authority may disregard price or
17 cost values without further investigation if the admin-
18 istering authority has determined that broadly avail-
19 able export subsidies existed or particular instances of
20 subsidization occurred with respect to those price or
21 cost values or if those price or cost values were subject
22 to an antidumping order.”.

1 **SEC. 506. REDUCTION IN BURDEN ON DEPARTMENT OF**
2 **COMMERCE BY REDUCING THE NUMBER OF**
3 **VOLUNTARY RESPONDENTS.**

4 *Section 782(a) of the Tariff Act of 1930 (19 U.S.C.*
5 *1677m(a)) is amended—*

6 *(1) in paragraph (1), by redesignating subpara-*
7 *graphs (A) and (B) as clauses (i) and (ii), respec-*
8 *tively, and by moving such clauses, as so redesi-*
9 *gnated, 2 ems to the right;*

10 *(2) by redesignating paragraphs (1) and (2) as*
11 *subparagraphs (A) and (B), respectively, and by mov-*
12 *ing such subparagraphs, as so redesignated, 2 ems to*
13 *the right;*

14 *(3) by striking “INVESTIGATIONS AND RE-*
15 *VIEWS.—In” and inserting the following: “INVESTIGA-*
16 *TIONS AND REVIEWS.—*

17 *“(1) IN GENERAL.—In”;*

18 *(4) in paragraph (1), as designated by para-*
19 *graph (3), by amending subparagraph (B), as redesi-*
20 *gnated by paragraph (2), to read as follows:*

21 *“(B) the number of exporters or producers*
22 *subject to the investigation or review is not so*
23 *large that any additional individual examina-*
24 *tion of such exporters or producers would be un-*
25 *duly burdensome to the administering authority*

1 *and inhibit the timely completion of the inves-*
2 *tigation or review.”; and*

3 *(5) by adding at the end the following:*

4 “(2) *DETERMINATION OF UNDULY BURDEN-*
5 *SOME.—In determining if an individual examination*
6 *under paragraph (1)(B) would be unduly burden-*
7 *some, the administering authority may consider the*
8 *following:*

9 “(A) *The complexity of the issues or infor-*
10 *mation presented in the proceeding, including*
11 *questionnaires and any responses thereto.*

12 “(B) *Any prior experience of the admin-*
13 *istering authority in the same or similar pro-*
14 *ceeding.*

15 “(C) *The total number of investigations*
16 *under subtitle A or B and reviews under section*
17 *751 being conducted by the administering au-*
18 *thority as of the date of the determination.*

19 “(D) *Such other factors relating to the time-*
20 *ly completion of each such investigation and re-*
21 *view as the administering authority considers*
22 *appropriate.”.*

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

24 *Pursuant to article 1902 of the North American Free*
25 *Trade Agreement and section 408 of the North American*

1 *Free Trade Agreement Implementation Act (19 U.S.C.*
2 *3438), the amendments made by this title shall apply with*
3 *respect to goods from Canada and Mexico.*

4 **TITLE VI—ADDITIONAL**
5 **ENFORCEMENT PROVISIONS**

6 **SEC. 601. TRADE ENFORCEMENT PRIORITIES.**

7 (a) *IN GENERAL.*—Section 310 of the Trade Act of
8 1974 (19 U.S.C. 2420) is amended to read as follows:

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

10 **“(a) TRADE ENFORCEMENT PRIORITIES, CONSULTA-**
11 **TIONS, AND REPORT.—**

12 **“(1) TRADE ENFORCEMENT PRIORITIES CON-**
13 **SULTATIONS.—***Not later than May 31 of each cal-*
14 *endar year that begins after the date of the enactment*
15 *of the Trade Facilitation and Trade Enforcement Act*
16 *of 2015, the United States Trade Representative (in*
17 *this section referred to as the ‘Trade Representative’)*
18 *shall consult with the Committee on Finance of the*
19 *Senate and the Committee on Ways and Means of the*
20 *House of Representatives with respect to the*
21 *prioritization of acts, policies, or practices of foreign*
22 *governments that raise concerns with respect to obli-*
23 *gations under the WTO Agreements or any other*
24 *trade agreement to which the United States is a*

1 *party, or otherwise create or maintain barriers to*
2 *United States goods, services, or investment.*

3 “(2) *IDENTIFICATION OF TRADE ENFORCEMENT*
4 *PRIORITIES.—In identifying acts, policies, or prac-*
5 *tices of foreign governments as trade enforcement pri-*
6 *orities under this subsection, the United States Trade*
7 *Representative shall focus on those acts, policies, and*
8 *practices the elimination of which is likely to have the*
9 *most significant potential to increase United States*
10 *economic growth, and take into account all relevant*
11 *factors, including—*

12 “(A) *the economic significance of any po-*
13 *tential inconsistency between an obligation as-*
14 *sumed by a foreign government pursuant to a*
15 *trade agreement to which both the foreign gov-*
16 *ernment and the United States are parties and*
17 *the acts, policies, or practices of that government;*

18 “(B) *the impact of the acts, policies, or*
19 *practices of a foreign government on maintain-*
20 *ing and creating United States jobs and produc-*
21 *tive capacity;*

22 “(C) *the major barriers and trade distorting*
23 *practices described in the most recent National*
24 *Trade Estimate required under section 181(b);*

1 “(D) the major barriers and trade dis-
2 torting practices described in other relevant re-
3 ports addressing international trade and invest-
4 ment barriers prepared by a Federal agency or
5 congressional commission during the 12 months
6 preceding the date of the most recent report
7 under paragraph (3);

8 “(E) a foreign government’s compliance
9 with its obligations under any trade agreements
10 to which both the foreign government and the
11 United States are parties;

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

14 “(G) the international competitive position
15 and export potential of United States products
16 and services.

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

19 “(A) IN GENERAL.—Not later than July 31
20 of each calendar year that begins after the date
21 of the enactment of the Trade Facilitation and
22 Trade Enforcement Act of 2015, the Trade Rep-
23 resentative shall submit to the Committee on Fi-
24 nance of the Senate and the Committee on Ways
25 and Means of the House of Representatives a re-

1 *port on acts, policies, or practices of foreign gov-*
2 *ernments identified as trade enforcement prior-*
3 *ities based on the consultations under paragraph*
4 *(1) and the criteria set forth in paragraph (2).*

5 “(B) *REPORT IN SUBSEQUENT YEARS.—The*
6 *Trade Representative shall include, when report-*
7 *ing under subparagraph (A) in any calendar*
8 *year after the calendar year that begins after the*
9 *date of the enactment of the Trade Facilitation*
10 *and Trade Enforcement Act of 2015, a descrip-*
11 *tion of actions taken to address any acts, poli-*
12 *cies, or practices of foreign governments identi-*
13 *fied as trade enforcement priorities under this*
14 *subsection in the calendar year preceding that*
15 *report and, as relevant, any year before that cal-*
16 *endar year.*

17 “(b) *SEMI-ANNUAL ENFORCEMENT CONSULTATIONS.—*

18 “(1) *IN GENERAL.—At the same time as the re-*
19 *porting under subsection (a)(3), and not later than*
20 *January 31 of each following year, the Trade Rep-*
21 *resentative shall consult with the Committee on Fi-*
22 *nance of the Senate and the Committee on Ways and*
23 *Means of the House of Representatives with respect to*
24 *the identification, prioritization, investigation, and*
25 *resolution of acts, policies, or practices of foreign gov-*

1 *ernments of concern with respect to obligations under*
2 *the WTO Agreements or any other trade agreement to*
3 *which the United States is a party, or that otherwise*
4 *create or maintain trade barriers.*

5 *“(2) ACTS, POLICIES, OR PRACTICES OF CON-*
6 *CERN.—The semi-annual enforcement consultations*
7 *required by paragraph (1) shall address acts, policies,*
8 *or practices of foreign governments that raise con-*
9 *cerns with respect to obligations under the WTO*
10 *Agreements or any other trade agreement to which the*
11 *United States is a party, or otherwise create or main-*
12 *tain trade barriers, including—*

13 *“(A) engagement with relevant trading*
14 *partners;*

15 *“(B) strategies for addressing such concerns;*

16 *“(C) availability and deployment of re-*
17 *sources to be used in the investigation or resolu-*
18 *tion of such concerns;*

19 *“(D) the merits of any potential dispute*
20 *resolution proceeding under the WTO Agree-*
21 *ments or any other trade agreement to which the*
22 *United States is a party relating to such con-*
23 *cerns; and*

24 *“(E) any other aspects of such concerns.*

1 “(3) *ACTIVE INVESTIGATIONS.*—*The semi-annual*
2 *enforcement consultations required by paragraph (1)*
3 *shall address acts, policies, or practices that the Trade*
4 *Representative is actively investigating with respect*
5 *to obligations under the WTO Agreements or any*
6 *other trade agreement to which the United States is*
7 *a party, including—*

8 “(A) *strategies for addressing concerns*
9 *raised by such acts, policies, or practices;*

10 “(B) *any relevant timeline with respect to*
11 *investigation of such acts, policies, or practices;*

12 “(C) *the merits of any potential dispute res-*
13 *olution proceeding under the WTO Agreements*
14 *or any other trade agreement to which the*
15 *United States is a party with respect to such*
16 *acts, policies, or practices;*

17 “(D) *barriers to the advancement of the in-*
18 *vestigation of such acts, policies, or practices;*
19 *and*

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

22 “(4) *ONGOING ENFORCEMENT ACTIONS.*—*The*
23 *semi-annual enforcement consultations required by*
24 *paragraph (1) shall address all ongoing enforcement*
25 *actions taken by or against the United States with re-*

1 *spect to obligations under the WTO Agreements or*
2 *any other trade agreement to which the United States*
3 *is a party, including—*

4 *“(A) any relevant timeline with respect to*
5 *such actions;*

6 *“(B) the merits of such actions;*

7 *“(C) any prospective implementation ac-*
8 *tions;*

9 *“(D) potential implications for any law or*
10 *regulation of the United States;*

11 *“(E) potential implications for United*
12 *States stakeholders, domestic competitors, and*
13 *exporters; and*

14 *“(F) other issues relating to such actions.*

15 *“(5) ENFORCEMENT RESOURCES.—The semi-an-*
16 *annual enforcement consultations required by paragraph*
17 *(1) shall address the availability and deployment of*
18 *enforcement resources, resource constraints on moni-*
19 *toring and enforcement activities, and strategies to*
20 *address those constraints, including the use of avail-*
21 *able resources of other Federal agencies to enhance*
22 *monitoring and enforcement capabilities.*

23 *“(c) INVESTIGATION AND RESOLUTION.—In the case of*
24 *any acts, policies, or practices of a foreign government iden-*
25 *tified as a trade enforcement priority under subsection (a),*

1 *the Trade Representative shall, not later than the date of*
2 *the first semi-annual enforcement consultations held under*
3 *subsection (b) after the identification of the priority, take*
4 *appropriate action to address that priority, including—*

5 “(1) *engagement with the foreign government to*
6 *resolve concerns raised by such acts, policies, or prac-*
7 *tices;*

8 “(2) *initiation of an investigation under section*
9 *302(b)(1) with respect to such acts, policies, or prac-*
10 *tices;*

11 “(3) *initiation of negotiations for a bilateral*
12 *agreement that provides for resolution of concerns*
13 *raised by such acts, policies, or practices; or*

14 “(4) *initiation of dispute settlement proceedings*
15 *under the WTO Agreements or any other trade agree-*
16 *ment to which the United States is a party with re-*
17 *spect to such acts, policies, or practices.*

18 “(d) *ENFORCEMENT NOTIFICATIONS AND CONSULTA-*
19 *TION.—*

20 “(1) *INITIATION OF ENFORCEMENT ACTION.—The*
21 *Trade Representative shall notify and consult with*
22 *the Committee on Finance of the Senate and the Com-*
23 *mittee on Ways and Means of the House of Represent-*
24 *atives in advance of initiation of any formal trade*
25 *dispute by or against the United States taken in re-*

1 *gard to an obligation under the WTO Agreements or*
2 *any other trade agreement to which the United States*
3 *is a party. With respect to a formal trade dispute*
4 *against the United States, if advance notification and*
5 *consultation are not possible, the Trade Representa-*
6 *tive shall notify and consult at the earliest practicable*
7 *opportunity after initiation of the dispute.*

8 “(2) *CIRCULATION OF REPORTS.*—*The Trade*
9 *Representative shall notify and consult with the Com-*
10 *mittee on Finance of the Senate and the Committee*
11 *on Ways and Means of the House of Representatives*
12 *in advance of the announced or anticipated circula-*
13 *tion of any report of a dispute settlement panel or the*
14 *Appellate Body of the World Trade Organization or*
15 *of a dispute settlement panel under any other trade*
16 *agreement to which the United States is a party with*
17 *respect to a formal trade dispute by or against the*
18 *United States.*

19 “(e) *DEFINITIONS.*—*In this section:*

20 “(1) *WTO.*—*The term ‘WTO’ means the World*
21 *Trade Organization.*

22 “(2) *WTO AGREEMENT.*—*The term ‘WTO Agree-*
23 *ment’ has the meaning given that term in section 2(9)*
24 *of the Uruguay Round Agreements Act (19 U.S.C.*
25 *3501(9)).*

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

4 “(b) *CLERICAL AMENDMENT.*—*The table of contents for*
 5 *the Trade Act of 1974 is amended by striking the item relat-*
 6 *ing to section 310 and inserting the following:”.*

 “*Sec. 310. Trade enforcement priorities.*”.

7 **SEC. 602. EXERCISE OF WTO AUTHORIZATION TO SUSPEND**
 8 **CONCESSIONS OR OTHER OBLIGATIONS**
 9 **UNDER TRADE AGREEMENTS.**

10 “(a) *IN GENERAL.*—*Section 306 of the Trade Act of*
 11 *1974 (19 U.S.C. 2416) is amended—*

12 (1) *by redesignating subsection (c) as subsection*
 13 *(d); and*

14 (2) *by inserting after subsection (b) the fol-*
 15 *lowing:*

16 “(c) *EXERCISE OF WTO AUTHORIZATION TO SUSPEND*
 17 *CONCESSIONS OR OTHER OBLIGATIONS.*—*If—*

18 “(1) *action has terminated pursuant to section*
 19 *307(c),*

20 “(2) *the petitioner or any representative of the*
 21 *domestic industry that would benefit from reinstatement*
 22 *of action has submitted to the Trade Represent-*
 23 *ative a written request for reinstatement of action,*
 24 *and*

1 “(3) the Trade Representatives has completed the
2 requirements of subsection (d) and section 307(c)(3),
3 the Trade Representative may at any time determine to
4 take action under section 301(c) to exercise an authoriza-
5 tion to suspend concessions or other obligations under Arti-
6 cle 22 of the Understanding on Rules and Procedures Gov-
7 erning the Settlement of Disputes (referred to in section
8 101(d)(16) of the Uruguay Round Agreements Act (19
9 U.S.C. 3511(d)(16))).”.

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

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

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

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

23 (4) *in section 307(c)(3) (19 U.S.C. 2417(c)(3)),*
24 *by inserting “or if a request is submitted to the Trade*

1 *Representative under section 306(c)(2) to reinstate ac-*
2 *tion,” after “under section 301,”.*

3 **SEC. 603. TRADE MONITORING.**

4 *(a) IN GENERAL.—Chapter 1 of title II of the Trade*
5 *Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding*
6 *at the end the following:*

7 **“SEC. 205. TRADE MONITORING.**

8 *“(a) MONITORING TOOL FOR IMPORTS.—*

9 *“(1) IN GENERAL.—Not later than 180 days*
10 *after the date of the enactment of the Trade Facilita-*
11 *tion and Trade Enforcement Act of 2015, the United*
12 *States International Trade Commission shall make*
13 *available on a website of the Commission an import*
14 *monitoring tool to allow the public access to data on*
15 *the volume and value of goods imported to the United*
16 *States for the purpose of assessing whether such data*
17 *has changed with respect to such goods over a period*
18 *of time.*

19 *“(2) DATA DESCRIBED.—For purposes of the*
20 *monitoring tool under paragraph (1), the Commission*
21 *shall use data compiled by the Department of Com-*
22 *merce and such other government data as the Com-*
23 *mission considers appropriate.*

24 *“(3) PERIODS OF TIME.—The Commission shall*
25 *ensure that data accessed through the monitoring tool*

1 *under paragraph (1) includes data for the most recent*
2 *quarter for which such data are available and pre-*
3 *vious quarters as the Commission considers prac-*
4 *ticable.*

5 *“(b) MONITORING REPORTS.—*

6 *“(1) IN GENERAL.—Not later than 270 days*
7 *after the date of the enactment of this section, and not*
8 *less frequently than quarterly thereafter, the Secretary*
9 *of Commerce shall publish on a website of the Depart-*
10 *ment of Commerce, and notify the Committee on Fi-*
11 *nance of the Senate and the Committee on Ways and*
12 *Means of the House of Representatives of the avail-*
13 *ability of, a monitoring report on changes in the vol-*
14 *ume and value of trade with respect to imports and*
15 *exports of goods categorized based on the 6-digit sub-*
16 *heading number of the goods under the Harmonized*
17 *Tariff Schedule of the United States during the most*
18 *recent quarter for which such data are available and*
19 *previous quarters as the Secretary considers prac-*
20 *ticable.*

21 *“(2) REQUESTS FOR COMMENT.—Not later than*
22 *one year after the date of the enactment of this sec-*
23 *tion, the Secretary of Commerce shall solicit through*
24 *the Federal Register public comment on the moni-*
25 *toring reports described in paragraph (1).*

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

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

“*Sec. 205. Trade monitoring.*”.

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

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

14 (a) *MAJOR TRADING PARTNER REPORT.*—

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

22 (2) *ELEMENTS.*—

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

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

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

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

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

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

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

19 (ii) an enhanced analysis of macro-
20 economic and exchange rate policies for
21 each country that is a major trading part-
22 ner of the United States that has—

23 (I) a significant bilateral trade
24 surplus with the United States;

1 (II) a material current account
2 surplus; and

3 (III) engaged in persistent one-
4 sided intervention in the foreign ex-
5 change market.

6 (B) *ENHANCED ANALYSIS*.—Each enhanced
7 analysis under subparagraph (A)(ii) shall in-
8 clude, for each country with respect to which an
9 analysis is made under that subparagraph—

10 (i) a description of developments in the
11 currency markets of that country, including,
12 to the greatest extent feasible, developments
13 with respect to currency interventions;

14 (ii) a description of trends in the real
15 effective exchange rate of the currency of
16 that country and in the degree of under-
17 valuation of that currency;

18 (iii) an analysis of changes in the cap-
19 ital controls and trade restrictions of that
20 country;

21 (iv) patterns in the reserve accumula-
22 tion of that country; and

23 (v) an analysis of the macroeconomic
24 policy mix of that country and its pattern
25 of savings-investment imbalances.

1 (3) *GUIDANCE.*—*The Secretary shall publicly*
2 *issue guidance not later than 90 days after the date*
3 *of enactment of the Act that describes the factors used*
4 *to assess under paragraph (2)(A)(ii) whether a coun-*
5 *try has a significant bilateral trade surplus with the*
6 *United States, has a material current account sur-*
7 *plus, and has engaged in persistent one-sided inter-*
8 *vention in the foreign exchange market.*

9 (b) *ENGAGEMENT ON EXCHANGE RATE AND ECONOMIC*
10 *POLICIES.*—

11 (1) *IN GENERAL.*—*The President, through the*
12 *Secretary, shall commence enhanced bilateral engage-*
13 *ment with each country for which an enhanced anal-*
14 *ysis of macroeconomic and currency exchange rate*
15 *policies is included in the report submitted under sub-*
16 *section (a), in order to, as appropriate—*

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

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

1 *effects of that undervaluation and those sur-*
2 *pluses; and/or*

3 *(C) advise that country of the ability of the*
4 *President to take action under subsection (c).*

5 (2) *WAIVER.—*

6 *(A) IN GENERAL.—The Secretary may*
7 *waive the requirement under subsection (b)(1) to*
8 *commence enhanced bilateral engagement with a*
9 *country if the Secretary determines that com-*
10 *mencing enhanced bilateral engagement with the*
11 *country—*

12 *(i) would have an adverse impact on*
13 *the United States economy greater than the*
14 *benefits of such action; or*

15 *(ii) would cause serious harm to the*
16 *national security of the United States.*

17 *(B) CERTIFICATION.—The Secretary shall*
18 *promptly certify to Congress a determination*
19 *under subparagraph (A).*

20 *(c) REMEDIAL ACTION.—*

21 *(1) IN GENERAL.—If, on or after the date that*
22 *is one year after the commencement of enhanced bilat-*
23 *eral engagement by the President, through the Sec-*
24 *retary, with respect to a country under subsection*
25 *(b)(1), the Secretary determines that the country has*

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

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

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

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

22 *(D) Instruct the United States Trade Rep-*
23 *resentative to take into account, in consultation*
24 *with the Secretary, in assessing whether to enter*
25 *into a bilateral or regional trade agreement with*

1 *that country or to initiate or participate in ne-*
2 *gotiations with respect to a bilateral or regional*
3 *trade agreement with that country, the extent to*
4 *which that country has failed to adopt appro-*
5 *priate policies to correct the undervaluation and*
6 *surpluses described in subsection (b)(1)(A).*

7 (2) *WAIVER.—*

8 (A) *IN GENERAL.—The President may*
9 *waive the requirement under paragraph (1) to*
10 *take remedial action if the President determines*
11 *that taking remedial action under paragraph (1)*
12 *would—*

13 (i) *have an adverse impact on the*
14 *United States economy greater than the*
15 *benefits of taking remedial action; or*

16 (ii) *would cause serious harm to the*
17 *national security of the United States.*

18 (B) *CERTIFICATION.—The President shall*
19 *promptly certify to Congress a determination*
20 *under subparagraph (A).*

21 (3) *EXCEPTION.—The President may not apply*
22 *a prohibition under paragraph (1)(B) in a manner*
23 *that is inconsistent with United States obligations*
24 *under international agreements.*

25 (4) *CONSULTATIONS.—*

1 (A) *OFFICE OF MANAGEMENT AND BUDGET.*—Before applying a prohibition under para-
2 graph (1)(B), the President shall consult with
3 the Director of the Office of Management and
4 Budget to determine whether such prohibition
5 would subject the taxpayers of the United States
6 to unreasonable cost.
7

8 (B) *CONGRESS.*—The President shall con-
9 sult with the appropriate committees of Congress
10 with respect to any action the President takes
11 under paragraph (1)(B), including whether the
12 President has consulted as required under sub-
13 paragraph (A).

14 (d) *DEFINITIONS.*—In this section:

15 (1) *APPROPRIATE COMMITTEES OF CONGRESS.*—
16 The term “appropriate committees of Congress”
17 means—

18 (A) the Committee on Banking, Housing,
19 and Urban Affairs and the Committee on Fi-
20 nance of the Senate; and

21 (B) the Committee on Financial Services
22 and the Committee on Ways and Means of the
23 House of Representatives.

24 (2) *COUNTRY.*—The term “country” means a for-
25 eign country, dependent territory, or possession of a

1 *foreign country, and may include an association of 2*
2 *or more foreign countries, dependent territories, or*
3 *possessions of countries into a customs union outside*
4 *the United States.*

5 (3) *REAL EFFECTIVE EXCHANGE RATE.*—*The*
6 *term “real effective exchange rate” means a weighted*
7 *average of bilateral exchange rates, expressed in price-*
8 *adjusted terms.*

9 (4) *SECRETARY.*—*The term “Secretary” means*
10 *the Secretary of the Treasury.*

11 **SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
12 **CHANGE RATE POLICY.**

13 (a) *ESTABLISHMENT.*—

14 (1) *IN GENERAL.*—*There is established an Advi-*
15 *sory Committee on International Exchange Rate Pol-*
16 *icy (in this section referred to as the “Committee”).*

17 (2) *DUTIES.*—*The Committee shall be responsible*
18 *for advising the Secretary of the Treasury with re-*
19 *spect to the impact of international exchange rates*
20 *and financial policies on the economy of the United*
21 *States.*

22 (b) *MEMBERSHIP.*—

23 (1) *IN GENERAL.*—*The Committee shall be com-*
24 *posed of 9 members as follows, none of whom shall be*
25 *employees of the Federal Government:*

1 (A) *Three members shall be appointed by*
2 *the President pro tempore of the Senate, upon*
3 *the recommendation of the chairmen and rank-*
4 *ing members of the Committee on Banking,*
5 *Housing, and Urban Affairs and the Committee*
6 *on Finance of the Senate.*

7 (B) *Three members shall be appointed by*
8 *the Speaker of the House of Representatives upon*
9 *the recommendation of the chairmen and rank-*
10 *ing members of the Committee on Financial*
11 *Services and the Committee on Ways and Means*
12 *of the House of Representatives.*

13 (C) *Three members shall be appointed by*
14 *the President.*

15 (2) *QUALIFICATIONS.—Members shall be selected*
16 *under paragraph (1) on the basis of their objectivity*
17 *and demonstrated expertise in finance, economics, or*
18 *currency exchange.*

19 (3) *TERMS.—*

20 (A) *IN GENERAL.—Members shall be ap-*
21 *pointed for a term of 2 years or until the Com-*
22 *mittee terminates.*

23 (B) *REAPPOINTMENT.—A member may be*
24 *reappointed to the Committee for additional*
25 *terms.*

1 (4) *VACANCIES.*—*Any vacancy in the Committee*
2 *shall not affect its powers, but shall be filled in the*
3 *same manner as the original appointment.*

4 (c) *DURATION OF COMMITTEE.*—

5 (1) *IN GENERAL.*—*The Committee shall termi-*
6 *nate on the date that is 2 years after the date of the*
7 *enactment of this Act unless renewed by the President*
8 *for a subsequent 2-year period.*

9 (2) *CONTINUED RENEWAL.*—*The President may*
10 *continue to renew the Committee for successive 2-year*
11 *periods by taking appropriate action to renew the*
12 *Committee prior to the date on which the Committee*
13 *would otherwise terminate.*

14 (d) *MEETINGS.*—*The Committee shall hold not less*
15 *than 2 meetings each calendar year.*

16 (e) *CHAIRPERSON.*—

17 (1) *IN GENERAL.*—*The Committee shall elect*
18 *from among its members a chairperson for a term of*
19 *2 years or until the Committee terminates.*

20 (2) *REELECTION; SUBSEQUENT TERMS.*—*A*
21 *chairperson of the Committee may be reelected chair-*
22 *person but is ineligible to serve consecutive terms as*
23 *chairperson.*

24 (f) *STAFF.*—*The Secretary of the Treasury shall make*
25 *available to the Committee such staff, information, per-*

1 *sonnel, administrative services, and assistance as the Com-*
2 *mittee may reasonably require to carry out the activities*
3 *of the Committee.*

4 (g) *APPLICATION OF THE FEDERAL ADVISORY COM-*
5 *MITTEE ACT.—*

6 (1) *IN GENERAL.—Except as provided in para-*
7 *graph (2), the provisions of the Federal Advisory*
8 *Committee Act (5 U.S.C. App.) shall apply to the*
9 *Committee.*

10 (2) *EXCEPTION.—Meetings of the Committee*
11 *shall be exempt from the requirements of subsections*
12 *(a) and (b) of section 10 and section 11 of the Federal*
13 *Advisory Committee Act (relating to open meetings,*
14 *public notice, public participation, and public avail-*
15 *ability of documents), whenever and to the extent it*
16 *is determined by the President or the Secretary of the*
17 *Treasury that such meetings will be concerned with*
18 *matters the disclosure of which—*

19 (A) *would seriously compromise the develop-*
20 *ment by the Government of the United States of*
21 *monetary or financial policy; or*

22 (B) *is likely to—*

23 (i) *lead to significant financial specu-*
24 *lation in currencies, securities, or commod-*
25 *ities; or*

1 (ii) significantly endanger the stability
2 of any financial institution.

3 (h) *AUTHORIZATION OF APPROPRIATIONS.*—There are
4 authorized to be appropriated to the Secretary of the Treas-
5 ury for each fiscal year in which the Committee is in effect
6 \$1,000,000 to carry out this section.

7 **TITLE VIII—ESTABLISHMENT OF**
8 **U.S. CUSTOMS AND BORDER**
9 **PROTECTION**

10 **SEC. 801. SHORT TITLE.**

11 This title may be cited as the “U.S. Customs and Bor-
12 der Protection Authorization Act”.

13 **SEC. 802. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**
14 **PROTECTION.**

15 (a) *IN GENERAL.*—Section 411 of the Homeland Secu-
16 rity Act of 2002 (6 U.S.C. 211) is amended to read as fol-
17 lows:

18 **“SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**
19 **PROTECTION; COMMISSIONER, DEPUTY COM-**
20 **MISSIONER, AND OPERATIONAL OFFICES.**

21 “(a) *IN GENERAL.*—There is established in the Depart-
22 ment an agency to be known as U.S. Customs and Border
23 Protection.

24 “(b) *COMMISSIONER OF U.S. CUSTOMS AND BORDER*
25 *PROTECTION.*—There shall be at the head of U.S. Customs

1 *and Border Protection a Commissioner of U.S. Customs*
2 *and Border Protection (in this section referred to as the*
3 *'Commissioner'), who shall be appointed by the President,*
4 *by and with the advice and consent of the Senate.*

5 *“(c) DUTIES.—The Commissioner shall—*

6 *“(1) ensure the interdiction of persons and goods*
7 *illegally entering or exiting the United States;*

8 *“(2) facilitate and expedite the flow of legitimate*
9 *travelers and trade;*

10 *“(3) detect, respond to, and interdict terrorists,*
11 *drug smugglers and traffickers, human smugglers and*
12 *traffickers, and other persons who may undermine the*
13 *security of the United States, in cases in which such*
14 *persons are entering, or have recently entered, the*
15 *United States;*

16 *“(4) safeguard the borders of the United States*
17 *to protect against the entry of dangerous goods;*

18 *“(5) oversee the functions of the Office of Trade*
19 *established under section 802(h) of the Trade Facilita-*
20 *tion and Trade Enforcement Act of 2015;*

21 *“(6) enforce and administer all customs laws of*
22 *the United States, including the Tariff Act of 1930;*

23 *“(7) enforce and administer all immigration*
24 *laws, as such term is defined in paragraph (17) of*
25 *section 101(a) of the Immigration and Nationality*

1 *Act (8 U.S.C. 1101(a)), as necessary for the inspec-*
2 *tion, processing, and admission of persons who seek to*
3 *enter or depart the United States, and as necessary*
4 *to ensure the detection, interdiction, removal, depart-*
5 *ure from the United States, short-term detention, and*
6 *transfer of persons unlawfully entering, or who have*
7 *recently unlawfully entered, the United States, in co-*
8 *ordination with U.S. Immigration and Customs En-*
9 *forcement and United States Citizenship and Immi-*
10 *gration Services;*

11 *“(8) develop and implement screening and tar-*
12 *geting capabilities, including the screening, reviewing,*
13 *identifying, and prioritizing of passengers and cargo*
14 *across all international modes of transportation, both*
15 *inbound and outbound;*

16 *“(9) in coordination with the Secretary, deploy*
17 *technology to collect the data necessary for the Sec-*
18 *retary to administer the biometric entry and exit*
19 *data system pursuant to section 7208 of the Intel-*
20 *ligence Reform and Terrorism Prevention Act of 2004*
21 *(8 U.S.C. 1365b);*

22 *“(10) enforce and administer the laws relating to*
23 *agricultural import and entry inspection referred to*
24 *in section 421;*

1 “(11) in coordination with the Under Secretary
2 for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal
3 law, the Federal Acquisition Regulation, and the Department’s acquisition management directives for
4 major acquisition programs of U.S. Customs and
5 Border Protection;

6 “(12) enforce and administer—

7 “(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6
8 U.S.C. 945; Public Law 109–347); and

9 “(B) the Customs-Trade Partnership Against Terrorism program under sections 211
10 through 223 of such Act (6 U.S.C. 961-973);

11 “(13) conduct polygraph examinations in accordance with section 3(1) of the Anti-Border Corruption Act of 2010 (Public Law 111–376);

12 “(14) establish the standard operating procedures described in subsection (k);

13 “(15) carry out the training required under subsection (l); and

14 “(16) carry out other duties and powers prescribed by law or delegated by the Secretary.

1 “(d) *DEPUTY COMMISSIONER.*—*There shall be in U.S.*
2 *Customs and Border Protection a Deputy Commissioner*
3 *who shall assist the Commissioner in the management of*
4 *U.S. Customs and Border Protection.*

5 “(e) *U.S. BORDER PATROL.*—

6 “(1) *IN GENERAL.*—*There is established in U.S.*
7 *Customs and Border Protection the U.S. Border Pa-*
8 *trol.*

9 “(2) *CHIEF.*—*There shall be at the head of the*
10 *U.S. Border Patrol a Chief, who shall report to the*
11 *Commissioner.*

12 “(3) *DUTIES.*—*The U.S. Border Patrol shall—*

13 “(A) *serve as the law enforcement office of*
14 *U.S. Customs and Border Protection with pri-*
15 *mary responsibility for interdicting persons at-*
16 *tempting to illegally enter or exit the United*
17 *States or goods being illegally imported into or*
18 *exported from the United States at a place other*
19 *than a designated port of entry;*

20 “(B) *deter and prevent illegal entry of ter-*
21 *rorists, terrorist weapons, persons, and contra-*
22 *band; and*

23 “(C) *carry out other duties and powers pre-*
24 *scribed by the Commissioner.*

25 “(f) *OFFICE OF AIR AND MARINE OPERATIONS.*—

1 “(1) *IN GENERAL.*—*There is established in U.S.*
2 *Customs and Border Protection an Office of Air and*
3 *Marine Operations.*

4 “(2) *ASSISTANT COMMISSIONER.*—*There shall be*
5 *at the head of the Office of Air and Marine Oper-*
6 *ations an Assistant Commissioner, who shall report to*
7 *the Commissioner.*

8 “(3) *DUTIES.*—*The Office of Air and Marine*
9 *Operations shall—*

10 “(A) *serve as the law enforcement office*
11 *within U.S. Customs and Border Protection with*
12 *primary responsibility to detect, interdict, and*
13 *prevent acts of terrorism and the unlawful move-*
14 *ment of people, illicit drugs, and other contra-*
15 *band across the borders of the United States in*
16 *the air and maritime environment;*

17 “(B) *conduct joint aviation and marine op-*
18 *erations with U.S. Immigration and Customs*
19 *Enforcement;*

20 “(C) *conduct aviation and marine oper-*
21 *ations with international, Federal, State, and*
22 *local law enforcement agencies, as appropriate;*

23 “(D) *administer the Air and Marine Oper-*
24 *ations Center established under paragraph (4);*
25 *and*

1 “(E) carry out other duties and powers pre-
2 scribed by the Commissioner.

3 “(4) AIR AND MARINE OPERATIONS CENTER.—

4 “(A) IN GENERAL.—There is established in
5 the Office of Air and Marine Operations an Air
6 and Marine Operations Center.

7 “(B) EXECUTIVE DIRECTOR.—There shall be
8 at the head of the Air and Marine Operations
9 Center an Executive Director, who shall report to
10 the Assistant Commissioner of the Office of Air
11 and Marine Operations.

12 “(C) DUTIES.—The Air and Marine Oper-
13 ations Center shall—

14 “(i) manage the air and maritime do-
15 main awareness of the Department;

16 “(ii) monitor and coordinate the air-
17 space for Unmanned Aerial Systems oper-
18 ations of the Office of Air and Marine Op-
19 erations in U.S. Customs and Border Pro-
20 tection;

21 “(iii) detect, identify, and coordinate a
22 response to threats to national security in
23 the air domain;

1 “(iv) provide aviation and marine
2 support to other Federal, State, tribal, and
3 local agencies; and

4 “(v) carry out other duties and powers
5 prescribed by the Assistant Commissioner.

6 “(g) OFFICE OF FIELD OPERATIONS.—

7 “(1) IN GENERAL.—There is established in U.S.
8 Customs and Border Protection an Office of Field Op-
9 erations.

10 “(2) ASSISTANT COMMISSIONER.—There shall be
11 at the head of the Office of Field Operations an As-
12 sistant Commissioner, who shall report to the Com-
13 missioner.

14 “(3) DUTIES.—The Office of Field Operations
15 shall coordinate the enforcement activities of U.S.
16 Customs and Border Protection at United States air,
17 land, and sea ports of entry to—

18 “(A) deter and prevent terrorists and ter-
19 rorist weapons from entering the United States
20 at such ports of entry;

21 “(B) conduct inspections at such ports of
22 entry to safeguard the United States from ter-
23 rorism and illegal entry of persons;

1 “(C) *prevent illicit drugs, agricultural*
2 *pests, and contraband from entering the United*
3 *States;*

4 “(D) *in coordination with the Commis-*
5 *sioner, facilitate and expedite the flow of legiti-*
6 *mate travelers and trade;*

7 “(E) *administer the National Targeting*
8 *Center established under paragraph (4); and*

9 “(F) *carry out other duties and powers pre-*
10 *scribed by the Commissioner.*

11 “(4) *NATIONAL TARGETING CENTER.—*

12 “(A) *IN GENERAL.—There is established in*
13 *the Office of Field Operations a National Tar-*
14 *geting Center.*

15 “(B) *EXECUTIVE DIRECTOR.—There shall be*
16 *at the head of the National Targeting Center an*
17 *Executive Director, who shall report to the As-*
18 *stant Commissioner of the Office of Field Oper-*
19 *ations.*

20 “(C) *DUTIES.—The National Targeting*
21 *Center shall—*

22 “(i) *serve as the primary forum for*
23 *targeting operations within U.S. Customs*
24 *and Border Protection to collect and ana-*

1 *lyze traveler and cargo information in ad-*
2 *vance of arrival in the United States;*

3 *“(ii) identify, review, and target trav-*
4 *elers and cargo for examination;*

5 *“(iii) coordinate the examination of*
6 *entry and exit of travelers and cargo;*

7 *“(iv) develop and conduct commercial*
8 *risk assessment targeting with respect to*
9 *cargo destined for the United States;*

10 *“(v) issue Trade Alerts pursuant to*
11 *section 111 of the Trade Facilitation and*
12 *Trade Enforcement Act of 2015; and*

13 *“(vi) carry out other duties and powers*
14 *prescribed by the Assistant Commissioner.*

15 *“(5) ANNUAL REPORT ON STAFFING.—Not later*
16 *than 30 days after the date of the enactment of the*
17 *Trade Facilitation and Trade Enforcement Act of*
18 *2015 and annually thereafter, the Assistant Commis-*
19 *sioner shall submit to the appropriate congressional*
20 *committees a report on the staffing model for the Of-*
21 *fice of Field Operations, including information on*
22 *how many supervisors, front-line U.S. Customs and*
23 *Border Protection officers, and support personnel are*
24 *assigned to each Field Office and port of entry.*

25 *“(h) OFFICE OF INTELLIGENCE.—*

1 “(1) *IN GENERAL.*—*There is established in U.S.*
2 *Customs and Border Protection an Office of Intel-*
3 *ligence.*

4 “(2) *ASSISTANT COMMISSIONER.*—*There shall be*
5 *at the head of the Office of Intelligence an Assistant*
6 *Commissioner, who shall report to the Commissioner.*

7 “(3) *DUTIES.*—*The Office of Intelligence shall—*

8 “(A) *develop, provide, coordinate, and im-*
9 *plement intelligence capabilities into a cohesive*
10 *intelligence enterprise to support the execution of*
11 *the duties and responsibilities of U.S. Customs*
12 *and Border Protection;*

13 “(B) *collect and analyze advance traveler*
14 *and cargo information;*

15 “(C) *establish, in coordination with the*
16 *Chief Intelligence Officer of the Department, as*
17 *appropriate, intelligence-sharing relationships*
18 *with Federal, State, local, and tribal agencies*
19 *and intelligence agencies;*

20 “(D) *conduct risk-based covert testing of*
21 *U.S. Customs and Border Protection operations,*
22 *including for nuclear and radiological risks; and*

23 “(E) *carry out other duties and powers pre-*
24 *scribed by the Commissioner.*

25 “(i) *OFFICE OF INTERNATIONAL AFFAIRS.*—

1 “(1) *IN GENERAL.*—*There is established in U.S.*
2 *Customs and Border Protection an Office of Inter-*
3 *national Affairs.*

4 “(2) *ASSISTANT COMMISSIONER.*—*There shall be*
5 *at the head of the Office of International Affairs an*
6 *Assistant Commissioner, who shall report to the Com-*
7 *missioner.*

8 “(3) *DUTIES.*—*The Office of International Af-*
9 *fairs, in collaboration with the Office of Policy of the*
10 *Department, shall—*

11 “(A) *coordinate and support U.S. Customs*
12 *and Border Protection’s foreign initiatives, poli-*
13 *cies, programs, and activities;*

14 “(B) *coordinate and support U.S. Customs*
15 *and Border Protection’s personnel stationed*
16 *abroad;*

17 “(C) *maintain partnerships and informa-*
18 *tion sharing agreements and arrangements with*
19 *foreign governments, international organizations,*
20 *and United States agencies in support of U.S.*
21 *Customs and Border Protection duties and re-*
22 *sponsibilities;*

23 “(D) *provide necessary capacity building,*
24 *training, and assistance to foreign border control*

1 *agencies to strengthen global supply chain and*
2 *travel security, as appropriate;*

3 “(E) *coordinate mission support services to*
4 *sustain U.S. Customs and Border Protection’s*
5 *global activities;*

6 “(F) *coordinate U.S. Customs and Border*
7 *Protection’s engagement in international nego-*
8 *tiations; and*

9 “(G) *carry out other duties and powers pre-*
10 *scribed by the Commissioner.*

11 “(j) *OFFICE OF INTERNAL AFFAIRS.—*

12 “(1) *IN GENERAL.—There is established in U.S.*
13 *Customs and Border Protection an Office of Internal*
14 *Affairs.*

15 “(2) *ASSISTANT COMMISSIONER.—There shall be*
16 *at the head of the Office of Internal Affairs an Assist-*
17 *ant Commissioner, who shall report to the Commis-*
18 *sioner.*

19 “(3) *DUTIES.—The Office of Internal Affairs*
20 *shall—*

21 “(A) *investigate criminal and administra-*
22 *tive matters and misconduct by officers, agents,*
23 *and other employees of U.S. Customs and Border*
24 *Protection;*

1 “(B) perform investigations of applicants
2 for employment with U.S. Customs and Border
3 Protection and periodic reinvestigations (in ac-
4 cordance with section 3001 of the Intelligence
5 Reform and Terrorism Prevention Act of 2004
6 (50 U.S.C. 3341; Public Law 108–458)) of offi-
7 cers, agents, and other employees of United
8 States Custom and Border Protection, including
9 investigations to determine suitability for em-
10 ployment and eligibility for access to classified
11 information;

12 “(C) manage integrity of U.S. Customs and
13 Border Protection’s counter-intelligence oper-
14 ations, including conduct of counter-intelligence
15 investigations;

16 “(D) conduct research and analysis regard-
17 ing misconduct of officers, agents, and other em-
18 ployees of U.S. Customs and Border Protection;
19 and

20 “(E) carry out other duties and powers pre-
21 scribed by the Commissioner.

22 “(k) STANDARD OPERATING PROCEDURES.—

23 “(1) IN GENERAL.—The Commissioner shall es-
24 tablish—

1 “(A) standard operating procedures for
2 searching, reviewing, retaining, and sharing in-
3 formation contained in communication, elec-
4 tronic, or digital devices encountered by U.S.
5 Customs and Border Protection personnel at
6 United States ports of entry;

7 “(B) standard use of force procedures that
8 officers and agents of U.S. Customs and Border
9 Protection may employ in the execution of their
10 duties, including the use of deadly force;

11 “(C) a uniform, standardized, and pub-
12 lically-available procedure for processing and in-
13 vestigating complaints against officers, agents,
14 and employees of U.S. Customs and Border Pro-
15 tection for violations of professional conduct, in-
16 cluding the timely disposition of complaints and
17 a written notification to the complainant of the
18 status or outcome, as appropriate, of the related
19 investigation, in accordance with section 552a of
20 title 5, United States Code (commonly referred to
21 as the ‘Privacy Act’ or the ‘Privacy Act of
22 1974’);

23 “(D) an internal, uniform reporting mecha-
24 nism regarding incidents involving the use of
25 deadly force by an officer or agent of U.S. Cus-

1 *toms and Border Protection, including an eval-*
2 *uation of the degree to which the procedures re-*
3 *quired under subparagraph (B) were followed;*
4 *and*

5 *“(E) standard operating procedures, acting*
6 *through the Assistant Commissioner for Air and*
7 *Marine Operations and in coordination with the*
8 *Office for Civil Rights and Civil Liberties and*
9 *the Office of Privacy of the Department, to pro-*
10 *vide command, control, communication, surveil-*
11 *lance, and reconnaissance assistance through the*
12 *use of unmanned aerial systems, including the*
13 *establishment of—*

14 *“(i) a process for other Federal, State,*
15 *and local law enforcement agencies to sub-*
16 *mit mission requests;*

17 *“(ii) a formal procedure to determine*
18 *whether to approve or deny such a mission*
19 *request;*

20 *“(iii) a formal procedure to determine*
21 *how such mission requests are prioritized*
22 *and coordinated; and*

23 *“(iv) a process regarding the protection*
24 *and privacy of data and images collected by*
25 *U.S. Customs and Border Protection*

1 *through the use of unmanned aerial sys-*
2 *tems.*

3 “(2) *REQUIREMENTS REGARDING CERTAIN NOTI-*
4 *FICATIONS.—The standard operating procedures es-*
5 *tablished pursuant to subparagraph (A) of paragraph*
6 *(1) shall require—*

7 “(A) *in the case of a search of information*
8 *conducted on an electronic device by U.S. Cus-*
9 *oms and Border Protection personnel, the Com-*
10 *missioner to notify the individual subject to such*
11 *search of the purpose and authority for such*
12 *search, and how such individual may obtain in-*
13 *formation on reporting concerns about such*
14 *search; and*

15 “(B) *in the case of information collected by*
16 *U.S. Customs and Border Protection through a*
17 *search of an electronic device, if such informa-*
18 *tion is transmitted to another Federal agency for*
19 *subject matter assistance, translation, or*
20 *decryption, the Commissioner to notify the indi-*
21 *vidual subject to such search of such trans-*
22 *mission.*

23 “(3) *EXCEPTIONS.—*

24 “(A) *IN GENERAL.—The Commissioner may*
25 *withhold the notifications required under para-*

1 *graphs (1)(C) and (2) if the Commissioner deter-*
2 *mines that such notifications would impair na-*
3 *tional security, law enforcement, or other oper-*
4 *ational interests.*

5 “(B) *TERRORIST WATCH LISTS.*—

6 “(i) *SEARCHES.*—*If the individual*
7 *subject to search of an electronic device pur-*
8 *suant to subparagraph (A) of paragraph (1)*
9 *is included on a Government-operated or*
10 *Government-maintained terrorist watch list,*
11 *the notifications required under paragraph*
12 *(2) shall not apply.*

13 “(ii) *COMPLAINTS.*—*If the complain-*
14 *ant using the process established under sub-*
15 *paragraph (C) of paragraph (1) is included*
16 *on a Government-operated or Government-*
17 *maintained terrorist watch list, the notifi-*
18 *cation required under such subparagraph*
19 *shall not apply.*

20 “(4) *UPDATE AND REVIEW.*—*The Commissioner*
21 *shall review and update every three years the stand-*
22 *ard operating procedures required under this sub-*
23 *section.*

24 “(5) *AUDITS.*—*The Inspector General of the De-*
25 *partment of Homeland Security shall develop and an-*

1 *nually administer an auditing mechanism to review*
2 *whether searches of electronic devices at or between*
3 *United States ports of entry are being conducted in*
4 *conformity with the standard operating procedures*
5 *required under subparagraph (A) of paragraph (1).*
6 *Such audits shall be submitted to the appropriate*
7 *congressional committees and shall include the fol-*
8 *lowing:*

9 *“(A) A description of the activities of offi-*
10 *cers and agents of U.S. Customs and Border*
11 *Protection with respect to such searches.*

12 *“(B) The number of such searches.*

13 *“(C) The number of instances in which in-*
14 *formation contained in such devices that were*
15 *subjected to such searches was retained, copied,*
16 *shared, or entered in an electronic database.*

17 *“(D) The number of such devices detained*
18 *as the result of such searches.*

19 *“(E) The number of instances in which in-*
20 *formation collected from such device was sub-*
21 *jected to such searches was transmitted to an-*
22 *other Federal agency, including whether such*
23 *transmission resulted in a prosecution or convic-*
24 *tion.*

1 “(6) *REQUIREMENTS REGARDING OTHER NOTIFI-*
2 *CATIONS.—The standard operating procedures estab-*
3 *lished pursuant to subparagraph (B) of paragraph*
4 *(1) shall require—*

5 “(A) *in the case of an incident of the use*
6 *of deadly force by U.S. Customs and Border Pro-*
7 *tection personnel, the Commissioner to notify the*
8 *appropriate congressional committees; and*

9 “(B) *the Commissioner to provide to such*
10 *committees a copy of the evaluation pursuant to*
11 *subparagraph (D) of such paragraph not later*
12 *than 30 days after completion of such evalua-*
13 *tion.*

14 “(7) *REPORT ON UNMANNED AERIAL SYSTEMS.—*
15 *The Commissioner shall submit to the appropriate*
16 *congressional committees an annual report that re-*
17 *views whether the use of unmanned aerial systems are*
18 *being conducted in conformity with the standard op-*
19 *erating procedures required under subparagraph (E)*
20 *of paragraph (1). Such reports—*

21 “(A) *shall be submitted with the President’s*
22 *annual budget;*

23 “(B) *may be submitted in classified form if*
24 *the Commissioner determines that such is appro-*
25 *priate, and*

1 “(C) shall include—

2 “(i) a detailed description of how,
3 where, and for how long data and images
4 collected through the use of unmanned aer-
5 ial systems by U.S. Customs and Border
6 Protection is collected and stored; and

7 “(ii) a list of Federal, State, and local
8 law enforcement agencies that submitted
9 mission requests in the previous year and
10 the disposition of such requests.

11 “(l) TRAINING.—The Commissioner shall require all
12 officers and agents of U.S. Customs and Border Protection
13 to participate in a specified amount of continuing edu-
14 cation (to be determined by the Commissioner) to maintain
15 an understanding of Federal legal rulings, court decisions,
16 and departmental policies, procedures, and guidelines.

17 “(m) SHORT TERM DETENTION STANDARDS.—

18 “(1) ACCESS TO FOOD AND WATER.—The Com-
19 missioner shall make every effort to ensure that ade-
20 quate access to food and water is provided to an indi-
21 vidual apprehended and detained at or between a
22 United States port of entry as soon as practicable fol-
23 lowing the time of such apprehension or during subse-
24 quent short term detention.

1 “(2) *ACCESS TO INFORMATION ON DETAINEE*
2 *RIGHTS AT BORDER PATROL PROCESSING CENTERS.—*

3 “(A) *IN GENERAL.—The Commissioner shall*
4 *ensure that an individual apprehended by a*
5 *U.S. Border Patrol agent or an Office of Field*
6 *Operations officer is provided with information*
7 *concerning such individual’s rights, including*
8 *the right to contact a representative of such indi-*
9 *vidual’s government for purposes of United*
10 *States treaty obligations.*

11 “(B) *FORM.—The information referred to*
12 *in subparagraph (A) may be provided either ver-*
13 *bally or in writing, and shall be posted in the*
14 *detention holding cell in which such individual*
15 *is being held. The information shall be provided*
16 *in a language understandable to such individual.*

17 “(3) *SHORT TERM DETENTION DEFINED.—In*
18 *this subsection, the term ‘short term detention’ means*
19 *detention in a U.S. Customs and Border Protection*
20 *processing center for 72 hours or less, before repatri-*
21 *ation to a country of nationality or last habitual resi-*
22 *dence.*

23 “(4) *DAYTIME REPATRIATION.—When prac-*
24 *ticable, repatriations shall be limited to daylight*

1 *hours and avoid locations that are determined to have*
2 *high indices of crime and violence.*

3 “(5) *REPORT ON PROCUREMENT PROCESS AND*
4 *STANDARDS.—Not later than 180 days after the date*
5 *of the enactment of this section, the Comptroller Gen-*
6 *eral of the United States shall submit to the appro-*
7 *priate congressional committees a report on the pro-*
8 *curement process and standards of entities with which*
9 *U.S. Customs and Border Protection has contracts for*
10 *the transportation and detention of individuals ap-*
11 *prehended by agents or officers of U.S. Customs and*
12 *Border Protection. Such report should also consider*
13 *the operational efficiency of contracting the transpor-*
14 *tation and detention of such individuals.*

15 “(6) *REPORT ON INSPECTIONS OF SHORT-TERM*
16 *CUSTODY FACILITIES.—The Commissioner shall—*

17 “(A) *annually inspect all facilities utilized*
18 *for short term detention; and*

19 “(B) *make publically available information*
20 *collected pursuant to such inspections, including*
21 *information regarding the requirements under*
22 *paragraphs (1) and (2) and, where appropriate,*
23 *issue recommendations to improve the conditions*
24 *of such facilities.*

25 “(n) *WAIT TIMES TRANSPARENCY.—*

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

2 “(A) *publish live wait times at the 20*
3 *United States airports that support the highest*
4 *volume of international travel (as determined by*
5 *available Federal flight data);*

6 “(B) *make information about such wait*
7 *times available to the public in real time through*
8 *the U.S. Customs and Border Protection Web*
9 *site;*

10 “(C) *submit to the appropriate congres-*
11 *sional committees quarterly reports that include*
12 *compilations of all such wait times and a rank-*
13 *ing of such United States airports by wait times;*
14 *and*

15 “(D) *provide adequate staffing at the U.S.*
16 *Customs and Border Protection information cen-*
17 *ter to ensure timely access for travelers attempt-*
18 *ing to submit comments or speak with a rep-*
19 *resentative about their entry experiences.*

20 “(2) *CALCULATION.*—*The wait times referred to*
21 *in paragraph (1)(A) shall be determined by calcu-*
22 *lating the time elapsed between an individual’s entry*
23 *into the U.S. Customs and Border Protection inspec-*
24 *tion area and such individual’s clearance by a U.S.*
25 *Customs and Border Protection officer.*

1 “(o) *OTHER AUTHORITIES.*—

2 “(1) *IN GENERAL.*—*The Secretary may establish*
3 *such other offices or Assistant Commissioners (or*
4 *other similar officers or officials) as the Secretary de-*
5 *termines necessary to carry out the missions, duties,*
6 *functions, and authorities of U.S. Customs and Bor-*
7 *der Protection.*

8 “(2) *NOTIFICATION.*—*If the Secretary exercises*
9 *the authority provided pursuant to paragraph (1), the*
10 *Secretary shall notify the appropriate congressional*
11 *committees not later than 30 days before exercising*
12 *such authority.*

13 “(p) *OTHER FEDERAL AGENCIES.*—*Nothing in this*
14 *section may be construed as affecting in any manner the*
15 *authority, existing on the date of the enactment of the Trade*
16 *Facilitation and Trade Enforcement Act of 2015, of any*
17 *other Federal agency, including the Transportation Secu-*
18 *rity Administration, with respect to the duties of U.S. Cus-*
19 *toms and Border Protection described in subsection (c).”.*

20 “(b) *SPECIAL RULES.*—

21 “(1) *TREATMENT.*—*Section 411 of the Homeland*
22 *Security Act of 2002, as amended by subsection (a)*
23 *of this section, shall be treated as if included in such*
24 *Act as of the date of the enactment of such Act, and,*
25 *in addition to the functions, missions, duties, and au-*

1 *thorities specified in such amended section 411, U.S.*
2 *Customs and Border Protection shall continue to per-*
3 *form and carry out the functions, missions, duties,*
4 *and authorities under section 411 of such Act as in*
5 *existence on the day before such date of enactment,*
6 *and section 415 of such Act.*

7 (2) *RULES OF CONSTRUCTION.—*

8 (A) *RULES AND REGULATIONS.—Notwith-*
9 *standing paragraph (1), nothing in this title or*
10 *any amendment made by this title may be con-*
11 *strued as affecting in any manner any rule or*
12 *regulation issued or promulgated pursuant to*
13 *any provision of law, including section 411 of*
14 *the Homeland Security Act of 2002 as in exist-*
15 *ence on the day before the date of the enactment*
16 *of this Act, and any such rule or regulation shall*
17 *continue to have full force and effect on and after*
18 *such date.*

19 (B) *OTHER ACTIONS.—Notwithstanding*
20 *paragraph (1), nothing in this Act may be con-*
21 *strued as affecting in any manner any action,*
22 *determination, policy, or decision pursuant to*
23 *section 411 of the Homeland Security Act of*
24 *2002 as in existence on the day before the date*
25 *of the enactment of this Act, and any such ac-*

1 *tion, determination, policy, or decision shall con-*
2 *tinue to have full force and effect on and after*
3 *such date.*

4 *(c) CONTINUATION IN OFFICE.—*

5 *(1) COMMISSIONER.—The individual serving as*
6 *the Commissioner of Customs on the day before the*
7 *date of the enactment of this Act may serve as the*
8 *Commissioner of U.S. Customs and Border Protection*
9 *on and after such date of enactment until a Commis-*
10 *sioner of U.S. Customs and Border Protection is ap-*
11 *pointed under section 411 of the Homeland Security*
12 *Act of 2002, as amended by subsection (a) of this sec-*
13 *tion.*

14 *(2) OTHER POSITIONS.—The individuals serving*
15 *as Assistant Commissioners and other officers and of-*
16 *icials under section 411 of the Homeland Security*
17 *Act of 2002 on the day before the date of the enact-*
18 *ment of this Act may serve as the appropriate Assist-*
19 *ant Commissioners and other officers and officials*
20 *under such section 411 as amended by subsection (a)*
21 *of this section unless the Commissioner of U.S. Cus-*
22 *toms and Border Protection determines that another*
23 *individual should hold such position or positions.*

24 *(d) REFERENCE.—*

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

6 (2) *OTHER REFERENCES.*—On and after the date
7 of the enactment of this Act, any reference in law or
8 regulations to the “Commissioner of Customs” or the
9 “Commissioner of the Customs Service” shall be
10 deemed to be a reference to the Commissioner of U.S.
11 Customs and Border Protection.

12 (e) *CLERICAL AMENDMENT.*—The table of contents in
13 section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.
14 101 et seq.) is amended by striking the item relating to sec-
15 tion 411 and inserting the following new item:

 “Sec. 411. Establishment of U.S. Customs and Border Protection; Commissioner,
 Deputy Commissioner, and operational offices.”.

16 (f) *REPEALS.*—Sections 416 and 418 of the Homeland
17 Security Act of 2002 (6 U.S.C. 216 and 218), and the items
18 relating to such sections in the table of contents in section
19 1(b) of such Act, are repealed.

20 (g) *CLERICAL AND CONFORMING AMENDMENTS.*—

21 (1) *IN GENERAL.*—The Homeland Security Act
22 of 2002 (6 U.S.C. 101 et seq.) is amended—

23 (A) in title I—

1 (i) in section 102(f)(10) (6 U.S.C.
2 112(f)(10)), by striking “the Directorate of
3 Border and Transportation Security” and
4 inserting “the Commissioner of U.S. Cus-
5 toms and Border Protection”; and

6 (ii) in section 103(a)(1) (6 U.S.C.
7 113(a)(1))—

8 (I) in subparagraph (C), by strik-
9 ing “An Under Secretary for Border
10 and Transportation Security.” and in-
11 serting “A Commissioner of U.S. Cus-
12 toms and Border Protection.”; and

13 (II) in subparagraph (G), by
14 striking “A Director of the Office of
15 Counternarcotics Enforcement.” and
16 inserting “A Director of U.S. Immi-
17 gration and Customs Enforcement.”;
18 and

19 (B) in title IV—

20 (i) by striking the title heading and
21 inserting “**BORDER, MARITIME,**
22 **AND TRANSPORTATION SECU-**
23 **RITY**”;

24 (ii) in subtitle A—

1 (I) by striking the subtitle head-
2 ing and inserting “**Border, Mari-**
3 **time, and Transportation Se-**
4 **curity Responsibilities and**
5 **Functions**”; and

6 (II) in section 402 (6 U.S.C.
7 202)—

8 (aa) in the section heading,
9 by striking “**RESPONSIBIL-**
10 **ITIES**” and inserting “**BORDER,**
11 **MARITIME, AND TRANSPOR-**
12 **TATION RESPONSIBILITIES**”;
13 and

14 (bb) by striking “, acting
15 through the Under Secretary for
16 Border and Transportation Secu-
17 rity,”;

18 (iii) in subtitle B—

19 (I) by striking the subtitle head-
20 ing and inserting “**U.S. Customs**
21 **and Border Protection**”;

22 (II) in section 412(b) (6 U.S.C.
23 212), by striking “the United States
24 Customs Service” each place it appears

1 *and inserting “U.S. Customs and Bor-*
2 *der Protection”;*

3 *(III) in section 413 (6 U.S.C.*
4 *213), by striking “available to the*
5 *United States Customs Service or”;*

6 *(IV) in section 414 (6 U.S.C.*
7 *214), by striking “the United States*
8 *Customs Service” and inserting “U.S.*
9 *Customs and Border Protection”;* and

10 *(V) in section 415 (6 U.S.C.*
11 *215)—*

12 *(aa) in paragraph (7), by in-*
13 *serting before the colon the fol-*
14 *lowing: “, and of U.S. Customs*
15 *and Border Protection on the day*
16 *before the effective date of the U.S.*
17 *Customs and Border Protection*
18 *Authorization Act”;* and

19 *(bb) in paragraph (8), by in-*
20 *serting before the colon the fol-*
21 *lowing: “, and of U.S. Customs*
22 *and Border Protection on the day*
23 *before the effective date of the U.S.*
24 *Customs and Border Protection*
25 *Authorization Act”;*

1 *(iv) in subtitle C—*

2 *(I) by striking section 424 (6*
 3 *U.S.C. 234) and inserting the fol-*
 4 *lowing new section:*

5 **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**
 6 **ADMINISTRATION AS A DISTINCT ENTITY.**

7 *“Notwithstanding any other provision of this Act, the*
 8 *Transportation Security Administration shall be main-*
 9 *tained as a distinct entity within the Department.”; and*

10 *(II) in section 430 (6 U.S.C.*
 11 *238)—*

12 *(aa) by amending subsection*
 13 *(a) to read as follows:*

14 *“(a) ESTABLISHMENT.—There is established in the De-*
 15 *partment an Office for Domestic Preparedness.”;*

16 *(bb) in subsection (b), by*
 17 *striking the second sentence; and*

18 *(cc) in subsection (c)(7), by*
 19 *striking “Directorate” and insert-*
 20 *ing “Department”; and*

21 *(v) in subtitle D—*

22 *(I) in section 441 (6 U.S.C.*
 23 *251)—*

1 (aa) by striking the section
2 heading and inserting “**TRANS-**
3 **FER OF FUNCTIONS**”; and

4 (bb) by striking “Under Sec-
5 retary for Border and Transpor-
6 tation Security” and inserting
7 “Secretary”;

8 (II) in section 443 (6 U.S.C.
9 253)—

10 (aa) in the matter preceding
11 paragraph (1), by striking
12 “Under Secretary for Border and
13 Transportation Security” and in-
14 serting “Secretary”; and

15 (bb) by striking “the Bureau
16 of Border Security” and inserting
17 “U.S. Immigration and Customs
18 Enforcement” each place it ap-
19 pears; and

20 (III) by amending section 444 (6
21 U.S.C. 254) to read as follows:

22 **“SEC. 444. EMPLOYEE DISCIPLINE.**

23 “Notwithstanding any other provision of law, the Sec-
24 retary may impose disciplinary action on any employee of
25 U.S. Immigration and Customs Enforcement and U.S. Cus-

1 *toms and Border Protection who willfully deceives Congress*
 2 *or agency leadership on any matter.”.*

3 (2) *CONFORMING AMENDMENTS.—Section 401 of*
 4 *the Homeland Security Act of 2002 (6 U.S.C. 201) is*
 5 *repealed.*

6 (3) *CLERICAL AMENDMENTS.—The table of con-*
 7 *tents in section 1(b) of the Homeland Security Act of*
 8 *2002 is amended—*

9 (A) *by striking the item relating to title IV*
 10 *and inserting the following:*

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY”;

11 (B) *by striking the item relating to subtitle*
 12 *A of title IV and inserting the following:*

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities
and Functions”;

13 (C) *by striking the item relating to section*
 14 *401;*

15 (D) *by striking the item relating to subtitle*
 16 *B of title IV and inserting the following:*

“Subtitle B—U.S. Customs and Border Protection”;

17 (E) *by striking the item relating to section*
 18 *441 and inserting the following:*

“Sec. 441. Transfer of functions.”;

19 *and*

20 (F) *by striking the item relating to section*
 21 *442 and inserting the following:*

“Sec. 442. U.S. Immigration and Customs Enforcement.”.

1 (h) *OFFICE OF TRADE.*—

2 (1) *TRADE OFFICES AND FUNCTIONS.*—*The Act*
3 *of March 3, 1927 (44 Stat. 1381, chapter 348; 19*
4 *U.S.C. 2071 et seq.), is amended by adding at the end*
5 *the following:*

6 **“SEC. 4. OFFICE OF TRADE.**

7 “(a) *IN GENERAL.*—*There is established in U.S. Cus-*
8 *toms and Border Protection an Office of Trade.*

9 “(b) *ASSISTANT COMMISSIONER.*—

10 “(1) *IN GENERAL.*—*There shall be at the head of*
11 *the Office of Trade an Assistant Commissioner, who*
12 *shall report to the Commissioner of U.S. Customs and*
13 *Border Protection.*

14 “(2) *QUALIFICATIONS.*—*The Assistant Commis-*
15 *sioner shall have a minimum of 10 years of profes-*
16 *sional experience with the customs and trade laws of*
17 *the United States.*

18 “(3) *SENIOR EXECUTIVE SERVICE POSITION.*—
19 *The position of Assistant Commissioner for Trade*
20 *shall be a Senior Executive Service position (as de-*
21 *defined in section 3132(a) of title 5, United States*
22 *Code).*

23 “(c) *DUTIES.*—*The Office of Trade shall—*

24 “(1) *direct the development and implementation,*
25 *pursuant to the customs and trade laws of the United*

1 *States, of policies and regulations administered by*
2 *U.S. Customs and Border Protection;*

3 *“(2) advise the Commissioner with respect to the*
4 *impact on trade facilitation and trade enforcement of*
5 *any policy or regulation otherwise proposed or ad-*
6 *ministered by U.S. Customs and Border Protection;*

7 *“(3) coordinate and cooperate with the Assistant*
8 *Commissioner for the Office of Field Operations with*
9 *respect to the trade facilitation and trade enforcement*
10 *activities of U.S. Customs and Border Protection car-*
11 *ried out at the land borders and ports of entry of the*
12 *United States;*

13 *“(4) direct the development and implementation*
14 *of matters relating to the priority trade issues identi-*
15 *fied by the Commissioner of U.S. Customs and Border*
16 *Protection in the joint strategic plan on trade facili-*
17 *tation and trade enforcement required under section*
18 *123A of the Customs and Trade Act of 1990;*

19 *“(5) otherwise advise the Commissioner of U.S.*
20 *Customs and Border Protection with respect to the de-*
21 *velopment and implementation of the joint strategic*
22 *plan;*

23 *“(6) direct the trade enforcement activities of*
24 *U.S. Customs and Border Protection;*

1 “(7) oversee the trade modernization activities of
2 *U.S. Customs and Border Protection, including the*
3 *development and implementation of the Automated*
4 *Commercial Environment computer system author-*
5 *ized under section 13031(f)(5) of the Consolidated*
6 *Omnibus Budget and Reconciliation Act of 1985 (19*
7 *U.S.C. 58c(f)(5)) and support for the establishment of*
8 *the International Trade Data System under the over-*
9 *sight of the Department of Treasury pursuant to sec-*
10 *tion 411(d) of the Tariff Act of 1930 (19 U.S.C.*
11 *1411(d));*

12 “(8) direct the administration of customs rev-
13 *enue functions as otherwise provided by law or dele-*
14 *gated by the Commissioner of U.S. Customs and Bor-*
15 *der Protection; and*

16 “(9) prepare an annual report to be submitted to
17 *the Committee on Finance of the Senate and the Com-*
18 *mittee on Ways and Means of the House of Represent-*
19 *atives not later than March 1 of each calendar year*
20 *that includes—*

21 “(A) a summary of the changes to customs
22 *policies and regulations adopted by U.S. Cus-*
23 *toms and Border Protection during the preceding*
24 *calendar year; and*

1 “(B) a description of the public vetting and
2 interagency consultation that occurred with re-
3 spect to each such change.

4 “(d) *TRANSFER OF ASSETS, FUNCTIONS, AND PER-*
5 *SONNEL; ELIMINATION OF OFFICES.*—

6 “(1) *OFFICE OF INTERNATIONAL TRADE.*—

7 “(A) *TRANSFER.*—Not later than 30 days
8 after the date of the enactment of the Trade Fa-
9 cilitation and Trade Enforcement Act of 2015,
10 the Commissioner shall transfer the assets, func-
11 tions, personnel, and liabilities of the Office of
12 International Trade to the Office of Trade estab-
13 lished under subsection (b).

14 “(B) *ELIMINATION.*—Not later than 30 days
15 after the date of enactment of the Trade Facilita-
16 tion and Trade Enforcement Act of 2015, the Of-
17 fice of International Trade shall be abolished.

18 “(C) *LIMITATION ON FUNDS.*—No funds ap-
19 propriated to U.S. Customs and Border Protec-
20 tion or the Department of Homeland Security
21 may be used to transfer the assets, functions, per-
22 sonnel, and liabilities of the Office of Inter-
23 national Trade to an office other than the Office
24 of Trade established under subsection (a).

1 “(D) *OFFICE OF INTERNATIONAL TRADE*
2 *DEFINED.*—*In this paragraph, the term ‘Office of*
3 *International Trade’ means the Office of Inter-*
4 *national Trade established by section 2 of the Act*
5 *of March 3, 1927 (44. Stat. 1381, chapter 348;*
6 *19 U.S.C. 2072), as added by section 402 of the*
7 *Security and Accountability for Every Port Act*
8 *of 2006 (Public Law 109–347; 120 Stat. 1924),*
9 *and as in effect on the day before the date of the*
10 *enactment of the Trade Facilitation and Trade*
11 *Enforcement Act of 2015.*

12 “(2) *OTHER TRANSFERS.*—

13 “(A) *IN GENERAL.*—*The Commissioner is*
14 *authorized to transfer any other assets, functions,*
15 *or personnel within U.S. Customs and Border*
16 *Protection to the Office of Trade established*
17 *under subsection (d).*

18 “(B) *CONGRESSIONAL NOTIFICATION.*—*Not*
19 *less than 90 days prior to the transfer of assets,*
20 *functions, or personnel under subparagraph*
21 *(A)(i), the Commissioner shall notify the Com-*
22 *mittee on Finance of the Senate, the Committee*
23 *on Homeland Security and Government Affairs*
24 *of the Senate, the Committee on Ways and*
25 *Means of the House of Representatives, and the*

1 *Committee on Homeland Security of the House*
2 *of Representatives of the specific assets, func-*
3 *tions, or personnel to be transferred, and the rea-*
4 *son for the transfer.*

5 “(e) *DEFINITIONS.*—*In this section, the terms ‘customs*
6 *and trade laws of the United States’, ‘trade enforcement’,*
7 *and ‘trade facilitation’ have the meanings given such terms*
8 *in section 2 of the Trade Facilitation and Trade Enforce-*
9 *ment Act of 2015.’”.*

10 (2) *CONTINUATION IN OFFICE.*—*The individual*
11 *-serving as the Assistant Commissioner of the Office of*
12 *International Trade on the day before the date of the*
13 *enactment of this Act may serve as the Assistant*
14 *Commissioner for Trade on or after such date of en-*
15 *actment, at the discretion of the Commissioner.*

16 (3) *CONFORMING AMENDMENTS.*—*Section 2 of*
17 *the Act of March 3, 1927 (44. Stat. 1381, chapter*
18 *348; 19 U.S.C. 2072), as added by section 402 of the*
19 *Security and Accountability for Every Port Act of*
20 *2006 (Public Law 109–347; 120 Stat. 1924), is*
21 *amended—*

22 (A) *by striking subsection (d); and*

23 (B) *by redesignating subsections (e) and (f)*
24 *as subsections (d) and (e), respectively.*

25 (i) *REPORTS AND ASSESSMENTS.*—

1 (1) *REPORT ON BUSINESS TRANSFORMATION INITIATIVE.*—Not later than 90 days after the date of the
2 *enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to the Com-*
3 *mittee on Homeland Security and the Committee on Ways and Means of the House of Representatives and*
4 *the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the*
5 *Senate a report on U.S. Customs and Border Protection’s Business Transformation Initiative, including*
6 *locations where the Initiative is deployed, the types of equipment utilized, a description of protocols and*
7 *procedures, information on wait times at such locations since deployment, and information regarding*
8 *the schedule for deployment at new locations.*

9 (2) *PORT OF ENTRY INFRASTRUCTURE NEEDS ASSESSMENTS.*—Not later 180 days after the date of
10 *the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall assess the phys-*
11 *ical infrastructure and technology needs at the 20 busiest land ports of entry (as measured by U.S. Customs and Border Protection) with a particular atten-*
12 *tion to identify ways to—*

13 (A) *improve travel and trade facilitation;*

14 (B) *reduce wait times;*

1 (C) improve physical infrastructure and
2 conditions for individuals accessing pedestrian
3 ports of entry;

4 (D) enter into long-term leases with non-
5 governmental and private sector entities;

6 (E) enter into lease-purchase agreements
7 with nongovernmental and private sector enti-
8 ties; and

9 (F) achieve cost savings through leases de-
10 scribed in subparagraphs (D) and (E).

11 (3) *PERSONAL SEARCHES.*—Not later than 90
12 days after the date of the enactment of this Act, the
13 Commissioner of U.S. Customs and Border Protection
14 shall submit to the Committee on Homeland Security
15 of the House of Representatives and the Committee on
16 Homeland Security and Governmental Affairs of the
17 Senate a report on supervisor-approved personal
18 searches conducted in the previous year by U.S. Cus-
19 toms and Border Protection personnel. Such report
20 shall include the number of personal searches con-
21 ducted in each sector and field office, the number of
22 invasive personal searches conducted in each sector
23 and field office, whether personal searches were con-
24 ducted by Office of Field Operations or U.S. Border

1 *Patrol personnel, and how many personal searches re-*
2 *sulted in the discovery of contraband.*

3 *(j) TRUSTED TRAVELER PROGRAMS.—The Secretary*
4 *of Homeland Security may not enter into or renew an*
5 *agreement with the government of a foreign country for a*
6 *trusted traveler program administered by U.S. Customs*
7 *and Border Protection unless the Secretary certifies in writ-*
8 *ing that such government—*

9 *(1) routinely submits to INTERPOL for inclu-*
10 *sion in INTERPOL’s Stolen and Lost Travel Docu-*
11 *ments database information about lost and stolen*
12 *passports and travel documents of the citizens and*
13 *nationals of such country; or*

14 *(2) makes available to the United States Govern-*
15 *ment the information described in paragraph (1)*
16 *through another means of reporting.*

17 *(k) SENSE OF CONGRESS REGARDING THE FOREIGN*
18 *LANGUAGE AWARD PROGRAM.—*

19 *(1) FINDINGS.—Congress finds the following:*

20 *(A) Congress established the Foreign Lan-*
21 *guage Award Program (FLAP) to incentivize*
22 *employees at United States ports of entry to uti-*
23 *lize their foreign language skills on the job by*
24 *providing a financial incentive for the use of the*
25 *foreign language for at least ten percent of their*

1 *duties after passage of competency tests. FLAP*
2 *incentivizes the use of more than two dozen lan-*
3 *guages and has been instrumental in identifying*
4 *and utilizing U.S. Customs and Border Protec-*
5 *tion officers and agents who are proficient in a*
6 *foreign language.*

7 *(B) In 1993, Congress provided for dedi-*
8 *cated funding for this program by stipulating*
9 *that certain fees collected by U.S. Customs and*
10 *Border Protection be used to fund FLAP.*

11 *(C) Through FLAP, foreign travelers are*
12 *aided by having an officer at a port of entry who*
13 *speaks their language, and U.S. Customs and*
14 *Border Protection benefits by being able to focus*
15 *its border security efforts in a more effective*
16 *manner.*

17 (2) *SENSE OF CONGRESS.—It is the sense of*
18 *Congress that FLAP incentivizes U.S. Customs and*
19 *Border Protection officers to attain and maintain*
20 *competency in a foreign language, thereby improving*
21 *the efficiency of operations for the functioning of U.S.*
22 *Customs and Border Protection’s security mission,*
23 *making the United States a more welcoming place*
24 *when foreign travelers find officers can communicate*

1 *in their language, and helping to expedite traveler*
2 *processing to reduce wait times.*

3 ***TITLE IX—MISCELLANEOUS***
4 ***PROVISIONS***

5 ***SEC. 901. DE MINIMIS VALUE.***

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

9 *(b) EFFECTIVE DATE.—The amendment made by sub-*
10 *section (a) shall apply with respect to articles entered, or*
11 *withdrawn from warehouse for consumption, on or after the*
12 *15th day after the date of the enactment of this Act.*

13 ***SEC. 902. CONSULTATION ON TRADE AND CUSTOMS REV-***
14 ***ENUE FUNCTIONS.***

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

17 *(1) in paragraph (1), by striking “on Depart-*
18 *ment policies and actions that have” and inserting*
19 *“not later than 30 days after proposing, and not later*
20 *than 30 days before finalizing, any Department poli-*
21 *cies, initiatives, or actions that will have”; and*

22 *(2) in paragraph (2)(A), by striking “not later*
23 *than 30 days prior to the finalization of” and insert-*
24 *ing “not later than 60 days before proposing, and not*
25 *later than 60 days before finalizing,”.*

1 **SEC. 903. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

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

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

15 (1) by striking “the Customs Service” each place
16 it appears and inserting “U.S. Customs and Border
17 Protection”;

18 (2) in subsection (d)(2)(B), by striking “The
19 Customs Service” and inserting “U.S. Customs and
20 Border Protection”; and

21 (3) in subsection (g)(2)(B), by striking “Sec-
22 retary’s notice” and inserting “notice under subpara-
23 graph (A)”.

1 **SEC. 904. AMENDMENTS TO CHAPTER 98 OF THE HAR-**
2 **MONIZED TARIFF SCHEDULE OF THE UNITED**
3 **STATES.**

4 (a) *ARTICLES EXPORTED AND RETURNED, ADVANCED*
5 *OR IMPROVED ABROAD.*—

6 (1) *IN GENERAL.*—U.S. Note 3 to subchapter II
7 of chapter 98 of the Harmonized Tariff Schedule of
8 the United States is amended by adding at the end
9 the following:

10 “(f)(1) For purposes of subheadings 9802.00.40 and
11 9802.00.50, fungible articles exported from the United
12 States for the purposes described in such subheadings—

13 “(A) may be commingled; and

14 “(B) the origin, value, and classification of such
15 articles may be accounted for using an inventory
16 management method.

17 “(2) If a person chooses to use an inventory manage-
18 ment method under this paragraph with respect to fungible
19 articles, the person shall use the same inventory manage-
20 ment method for any other articles with respect to which
21 the person claims fungibility under this paragraph.

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

23 “(A) the term ‘fungible articles’ means merchan-
24 dise or articles that, for commercial purposes, are
25 identical or interchangeable in all situations; and

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

4 (2) *EFFECTIVE DATE.*—The amendment made by
5 this subsection applies to articles classifiable under
6 subheading 9802.00.40 or 9802.00.50 of the Har-
7 monized Tariff Schedule of the United States that are
8 entered, or withdrawn from warehouse for consump-
9 tion, on or after the date that is 60 days after the
10 date of the enactment of this Act.

11 (b) *MODIFICATION OF PROVISIONS RELATING TO RE-*
12 *TURNED PROPERTY.*—

13 (1) *IN GENERAL.*—The article description for
14 heading 9801.00.10 of the Harmonized Tariff Sched-
15 ule of the United States is amended by inserting after
16 “exported” the following: “, or any other products
17 when returned within 3 years after having been ex-
18 ported”.

19 (2) *EFFECTIVE DATE.*—The amendment made by
20 paragraph (1) applies to articles entered, or with-
21 drawn from warehouse for consumption, on or after
22 the date that is 60 days after the date of the enact-
23 ment of this Act.

1 (c) *DUTY-FREE TREATMENT FOR CERTAIN UNITED*
2 *STATES GOVERNMENT PROPERTY RETURNED TO THE*
3 *UNITED STATES.—*

4 (1) *IN GENERAL.—Subchapter I of chapter 98 of*
5 *the Harmonized Tariff Schedule of the United States*
6 *is amended by inserting in numerical sequence the*
7 *following new heading:*

“	9801.00.11	<i>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</i>	<i>Free</i>	”
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8 (2) *EFFECTIVE DATE.—The amendment made by*
9 *paragraph (1) applies to goods entered, or withdrawn*
10 *from warehouse for consumption, on or after the date*
11 *that is 60 days after the date of the enactment of this*
12 *Act.*

13 **SEC. 905. EXEMPTION FROM DUTY OF RESIDUE OF BULK**
14 **CARGO CONTAINED IN INSTRUMENTS OF**
15 **INTERNATIONAL TRAFFIC PREVIOUSLY EX-**
16 **PORTED FROM THE UNITED STATES.**

17 (a) *IN GENERAL.—General Note 3(e) of the Har-*
18 *monized Tariff Schedule of the United States is amended—*

19 (1) *in subparagraph (v), by striking “and” at*
20 *the end;*

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

3 (3) *by inserting after subparagraph (vi) (as so*
4 *amended) the following new subparagraph:*

5 *“(vii) residue of bulk cargo contained in in-*
6 *struments of international traffic previously ex-*
7 *ported from the United States,”; and*

8 (4) *by adding at the end of the flush text fol-*
9 *lowing subparagraph (vii) (as so added) the fol-*
10 *lowing: “For purposes of subparagraph (vii) of this*
11 *paragraph: The term ‘residue’ means material of bulk*
12 *cargo that remains in an instrument of international*
13 *traffic after the bulk cargo is removed, with a quan-*
14 *tity, by weight or volume, not exceeding 7 percent of*
15 *the bulk cargo, and with no or de minimis value. The*
16 *term ‘bulk cargo’ means cargo that is unpackaged and*
17 *is in either solid, liquid, or gaseous form. The term*
18 *‘instruments of international traffic’ means con-*
19 *tainers or holders, capable of and suitable for repeated*
20 *use, such as lift vans, cargo vans, shipping tanks,*
21 *skids, pallets, caul boards, and cores for textile fab-*
22 *rics, arriving (whether loaded or empty) in use or to*
23 *be used in the shipment of merchandise in inter-*
24 *national traffic, and any additional articles or classes*
25 *of articles that the Commissioner of U.S. Customs*

1 *and Border Protection designates as instruments of*
2 *international traffic.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
4 *section (a) take effect on the date of the enactment of this*
5 *Act and apply with respect to residue of bulk cargo con-*
6 *tained in instruments of international traffic that are im-*
7 *ported into the customs territory of the United States on*
8 *or after such date of enactment and that previously have*
9 *been exported from the United States.*

10 **SEC. 906. DRAWBACK AND REFUNDS.**

11 (a) *ARTICLES MADE FROM IMPORTED MERCHAN-*
12 *DISE.*—*Section 313(a) of the Tariff Act of 1930 (19 U.S.C.*
13 *1313(a)) is amended by striking “the full amount of the*
14 *duties paid upon the merchandise so used shall be refunded*
15 *as drawback, less 1 per centum of such duties, except that*
16 *such” and inserting “an amount calculated pursuant to*
17 *regulations prescribed by the Secretary of the Treasury*
18 *under subsection (l) shall be refunded as drawback, except*
19 *that”.*

20 (b) *SUBSTITUTION FOR DRAWBACK PURPOSES.*—*Sec-*
21 *tion 313(b) of the Tariff Act of 1930 (19 U.S.C. 1313(b))*
22 *is amended—*

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

25 “(1) *IN GENERAL.*—*If imported”;*

1 (2) by striking “and any other merchandise
2 (whether imported or domestic) of the same kind and
3 quality are” and inserting “or merchandise classifi-
4 able under the same 8-digit HTS subheading number
5 as such imported merchandise is”;

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

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

12 (5) by striking “an amount of drawback equal
13 to” and all that follows through the end period and
14 inserting “an amount calculated pursuant to regula-
15 tions prescribed by the Secretary of the Treasury
16 under subsection (l), but only if those articles have
17 not been used prior to such exportation or destruc-
18 tion.”; and

19 (6) by adding at the end the following:

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

22 “(A) MANUFACTURERS AND PRODUCERS.—

23 *Drawback shall be allowed under paragraph (1)*
24 *with respect to an article manufactured or pro-*
25 *duced using imported merchandise or other mer-*

1 *chandise classifiable under the same 8-digit HTS*
2 *subheading number as such imported merchan-*
3 *dise only if the manufacturer or producer of the*
4 *article received such imported merchandise or*
5 *such other merchandise, directly or indirectly,*
6 *from the importer.*

7 “(B) *EXPORTERS AND DESTROYERS.—*
8 *Drawback shall be allowed under paragraph (1)*
9 *with respect to a manufactured or produced arti-*
10 *cle that is exported or destroyed only if the ex-*
11 *porter or destroyer received that article, directly*
12 *or indirectly, from the manufacturer or pro-*
13 *ducer.*

14 “(C) *EVIDENCE OF TRANSFER.—*Transfers
15 *of merchandise under subparagraph (A) and*
16 *transfers of articles under subparagraph (B)*
17 *may be evidenced by business records kept in the*
18 *normal course of business and no additional cer-*
19 *tificates of transfer or manufacture shall be re-*
20 *quired.*

21 “(3) *SUBMISSION OF BILL OF MATERIALS OR*
22 *FORMULA.—*

23 “(A) *IN GENERAL.—*Drawback shall be al-
24 *lowed under paragraph (1) with respect to an*
25 *article manufactured or produced using im-*

1 *ported merchandise or other merchandise classifi-*
2 *able under the same 8-digit HTS subheading*
3 *number as such imported merchandise only if*
4 *the person making the drawback claim submits*
5 *with the claim a bill of materials or formula*
6 *identifying the merchandise and article by the 8-*
7 *digit HTS subheading number and the quantity*
8 *of the merchandise.*

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

18 “(4) *SPECIAL RULE FOR SOUGHT CHEMICAL*
19 *ELEMENTS.—*

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

22 “(i) *considered imported merchandise,*
23 *or merchandise classifiable under the same*
24 *8-digit HTS subheading number as such*
25 *imported merchandise, used in the manu-*

1 *facture or production of an article as de-*
2 *scribed in paragraph (1); and*

3 “(ii) substituted for source material
4 containing that sought chemical element,
5 without regard to whether the sought chem-
6 ical element and the source material are
7 classifiable under the same 8-digit HTS
8 subheading number, and apportioned quan-
9 titatively, as appropriate.

10 “(B) SOUGHT CHEMICAL ELEMENT DE-
11 FINED.—In this paragraph, the term ‘sought
12 chemical element’ means an element listed in the
13 Periodic Table of Elements that is imported into
14 the United States or a chemical compound con-
15 sisting of those elements, either separately in ele-
16 mental form or contained in source material.”.

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

20 (1) in paragraph (1)—

21 (A) in subparagraph (C)(ii), by striking
22 “under a certificate of delivery” each place it ap-
23 pears;

24 (B) in subparagraph (D)—

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

2 and

3 (ii) by striking “the Customs Service”

4 and inserting “U.S. Customs and Border

5 Protection”; and

6 (C) in the flush text at the end, by striking

7 “the full amount of the duties paid upon such

8 merchandise, less 1 percent,” and inserting “an

9 amount calculated pursuant to regulations pre-

10 scribed by the Secretary of the Treasury under

11 subsection (l)”;

12 (2) in paragraph (2), by striking “the Customs

13 Service” and inserting “U.S. Customs and Border

14 Protection”; and

15 (3) by amending paragraph (3) to read as fol-

16 lows:

17 “(3) *EVIDENCE OF TRANSFERS.*—Transfers of

18 merchandise under paragraph (1) may be evidenced

19 by business records kept in the normal course of busi-

20 ness and no additional certificates of transfer shall be

21 required.”.

22 (d) *PROOF OF EXPORTATION.*—Section 313(i) of the

23 Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read

24 as follows:

1 “(i) *PROOF OF EXPORTATION.*—A person claiming
2 drawback under this section based on the exportation of an
3 article shall provide proof of the exportation of the article.

4 Such proof of exportation—

5 “(1) shall establish fully the date and fact of ex-
6 portation and the identity of the exporter; and

7 “(2) may be established through the use of
8 records kept in the normal course of business or
9 through an electronic export system of the United
10 States Government, as determined by the Commis-
11 sioner of U.S. Customs and Border Protection.”.

12 (e) *UNUSED MERCHANDISE DRAWBACK.*—Section
13 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is
14 amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (A), in the matter pre-
17 ceding clause (i)—

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

20 (ii) by inserting “and before the draw-
21 back claim is filed” after “the date of im-
22 portation”; and

23 (B) in the flush text at the end, by striking
24 “99 percent of the amount of each duty, tax, or
25 fee so paid” and inserting “an amount cal-

1 *culated pursuant to regulations prescribed by the*
2 *Secretary of the Treasury under subsection (l)”;*
3 *(2) in paragraph (2)—*

4 *(A) in the matter preceding subparagraph*
5 *(A), by striking “paragraph (4)” and inserting*
6 *“paragraphs (4), (5), and (6)”;*

7 *(B) in subparagraph (A), by striking “com-*
8 *mercially interchangeable with” and inserting*
9 *“classifiable under the same 8-digit HTS sub-*
10 *heading number as”;*

11 *(C) in subparagraph (B)—*

12 *(i) by striking “3-year” and inserting*
13 *“5-year”; and*

14 *(ii) by inserting “and before the draw-*
15 *back claim is filed” after “the imported*
16 *merchandise”; and*

17 *(D) in subparagraph (C)(ii), by striking*
18 *subclause (II) and inserting the following:*

19 *“(II) received the imported mer-*
20 *chandise, other merchandise classifiable*
21 *under the same 8-digit HTS sub-*
22 *heading number as such imported mer-*
23 *chandise, or any combination of such*
24 *imported merchandise and such other*
25 *merchandise, directly or indirectly*

1 *from the person who imported and*
2 *paid any duties, taxes, and fees im-*
3 *posed under Federal law upon impor-*
4 *tation or entry and due on the im-*
5 *ported merchandise (and any such*
6 *transferred merchandise, regardless of*
7 *its origin, will be treated as the im-*
8 *ported merchandise and any retained*
9 *merchandise will be treated as domestic*
10 *merchandise);”;*

11 *(E) in the flush text at the end—*

12 *(i) by striking “the amount of each*
13 *such duty, tax, and fee” and all that follows*
14 *through “99 percent of that duty, tax, or*
15 *fee” and inserting “an amount calculated*
16 *pursuant to regulations prescribed by the*
17 *Secretary of the Treasury under subsection*
18 *(l) shall be refunded as drawback”;* and

19 *(ii) by striking the last sentence and*
20 *inserting the following: “Notwithstanding*
21 *subparagraph (A), drawback shall be al-*
22 *lowed under this paragraph with respect to*
23 *wine if the imported wine and the exported*
24 *wine are of the same color and the price*
25 *variation between the imported wine and*

1 *the exported wine does not exceed 50 per-*
2 *cent. Transfers of merchandise may be evi-*
3 *denced by business records kept in the nor-*
4 *mal course of business and no additional*
5 *certificates of transfer shall be required.”;*
6 *and*

7 (3) *in paragraph (3)(B), by striking “the com-*
8 *mercially interchangeable merchandise” and inserting*
9 *“merchandise classifiable under the same 8-digit HTS*
10 *subheading number as such imported merchandise”;*
11 *and*

12 (4) *by adding at the end the following:*

13 “(5)(A) *For purposes of paragraph (2) and ex-*
14 *cept as provided in subparagraph (B), merchandise*
15 *may not be substituted for imported merchandise for*
16 *drawback purposes based on the 8-digit HTS sub-*
17 *heading number if the article description for the 8-*
18 *digit HTS subheading number under which the im-*
19 *ported merchandise is classified begins with the term*
20 *‘other’.*

21 “(B) *In cases described in subparagraph (A),*
22 *merchandise may be substituted for imported mer-*
23 *chandise for drawback purposes if—*

24 “(i) *the other merchandise and such im-*
25 *ported merchandise are classifiable under the*

1 same 10-digit HTS statistical reporting number;
2 and

3 “(ii) the article description for that 10-digit
4 HTS statistical reporting number does not begin
5 with the term ‘other’.

6 “(6)(A) For purposes of paragraph (2), a draw-
7 back claimant may use the first 8 digits of the 10-
8 digit Schedule B number for merchandise or an arti-
9 cle to determine if the merchandise or article is classi-
10 fiable under the same 8-digit HTS subheading num-
11 ber as the imported merchandise, without regard to
12 whether the Schedule B number corresponds to more
13 than one 8-digit HTS subheading number.

14 “(B) In this paragraph, the term ‘Schedule B’
15 means the Department of Commerce Schedule B, Sta-
16 tistical Classification of Domestic and Foreign Com-
17 modities Exported from the United States.”.

18 (f) *LIABILITY FOR DRAWBACK CLAIMS.*—Section
19 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is
20 amended to read as follows:

21 “(k) *LIABILITY FOR DRAWBACK CLAIMS.*—

22 “(1) *IN GENERAL.*—Any person making a claim
23 for drawback under this section shall be liable for the
24 full amount of the drawback claimed.

1 “(2) *LIABILITY OF IMPORTERS.*—An importer
2 shall be liable for any drawback claim made by an-
3 other person with respect to merchandise imported by
4 the importer in an amount equal to the lesser of—

5 “(A) the amount of duties, taxes, and fees
6 that the person claimed with respect to the im-
7 ported merchandise; or

8 “(B) the amount of duties, taxes, and fees
9 that the importer authorized the other person to
10 claim with respect to the imported merchandise.

11 “(3) *JOINT AND SEVERAL LIABILITY.*—Persons
12 described in paragraphs (1) and (2) shall be jointly
13 and severally liable for the amount described in para-
14 graph (2).”.

15 (g) *REGULATIONS.*—Section 313(l) of the Tariff Act of
16 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

17 “(l) *REGULATIONS.*—

18 “(1) *IN GENERAL.*—Allowance of the privileges
19 provided for in this section shall be subject to compli-
20 ance with such rules and regulations as the Secretary
21 of the Treasury shall prescribe.

22 “(2) *CALCULATION OF DRAWBACK.*—

23 “(A) *IN GENERAL.*—Not later than the date
24 that is 2 years after the date of the enactment of
25 the Trade Facilitation and Trade Enforcement

1 *Act of 2015 (or, if later, the effective date pro-*
2 *vided for in section 906(q)(2)(B) of that Act), the*
3 *Secretary shall prescribe regulations for deter-*
4 *mining the calculation of amounts refunded as*
5 *drawback under this section.*

6 “(B) *CLAIMS WITH RESPECT TO UNUSED*
7 *MERCHANDISE.—The regulations required by*
8 *subparagraph (A) for determining the calcula-*
9 *tion of amounts refunded as drawback under this*
10 *section shall provide for a refund of equal to 99*
11 *percent of the duties, taxes, and fees paid with*
12 *respect to the imported merchandise, except that*
13 *where there is substitution of the merchandise or*
14 *article, then—*

15 “(i) *in the case of an article that is ex-*
16 *ported, the amount of the refund shall be*
17 *equal to 99 percent of the lesser of—*

18 “(I) *the amount of duties, taxes,*
19 *and fees paid with respect to the im-*
20 *ported merchandise; or*

21 “(II) *the amount of duties, taxes,*
22 *and fees that would apply to the ex-*
23 *ported article if the exported article*
24 *were imported; and*

1 “(ii) *in the case of an article that is*
2 *destroyed, the amount of the refund shall be*
3 *an amount that is—*

4 “(I) *equal to 99 percent of the*
5 *lesser of—*

6 “(aa) *the amount of duties,*
7 *taxes, and fees paid with respect*
8 *to the imported merchandise; and*

9 “(bb) *the amount of duties,*
10 *taxes, and fees that would apply*
11 *to the destroyed article if the de-*
12 *stroyed article were imported; and*

13 “(II) *reduced by the value of ma-*
14 *terials recovered during destruction as*
15 *provided in subsection (x).*

16 “(C) *CLAIMS WITH RESPECT TO ARTICLES*
17 *INTO WHICH SUBSTITUTE MERCHANDISE IS IN-*
18 *CORPORATED.—The regulations required by sub-*
19 *paragraph (A) for determining the calculation of*
20 *amounts refunded as drawback under this sec-*
21 *tion shall provide for a refund of 99 percent of*
22 *the duties, taxes, and fees paid with respect to*
23 *the imported merchandise incorporated into an*
24 *article that is exported or destroyed, except that*

1 *where there is substitution of the imported mer-*
2 *chandise, then—*

3 “(i) *in the case of an article that is ex-*
4 *ported, the amount of the refund shall be*
5 *equal to 99 percent of the lesser of—*

6 “(I) *the amount of duties, taxes,*
7 *and fees paid with respect to the im-*
8 *ported merchandise; or*

9 “(II) *the amount of duties, taxes,*
10 *and fees that would apply to the sub-*
11 *stituted merchandise if the substituted*
12 *merchandise were imported; and*

13 “(ii) *in the case of an article that is*
14 *destroyed, the amount of the refund shall be*
15 *an amount that is—*

16 “(I) *equal to 99 percent of the*
17 *lesser of—*

18 “(aa) *the amount of duties,*
19 *taxes, and fees paid with respect*
20 *to the imported merchandise; and*

21 “(bb) *the amount of duties,*
22 *taxes, and fees that would apply*
23 *to the substituted merchandise if*
24 *the substituted merchandise were*
25 *imported; and*

1 “(II) reduced by the value of ma-
2 terials recovered during destruction as
3 provided in subsection (x).

4 “(3) STATUS REPORTS ON REGULATIONS.—Not
5 later than the date that is one year after the date of
6 the enactment of the Trade Facilitation and Trade
7 Enforcement Act of 2015, and annually thereafter
8 until the regulations required by paragraph (2) are
9 final, the Secretary shall submit to Congress a report
10 on the status of those regulations.”.

11 (h) SUBSTITUTION OF FINISHED PETROLEUM DERIVA-
12 TIVES.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C.
13 1313(p)) is amended—

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

17 (2) in paragraph (3)(A)—

18 (A) in clause (ii)(III), by striking “, as so
19 certified in a certificate of delivery or certificate
20 of manufacture and delivery”; and

21 (B) in the flush text at the end—

22 (i) by striking “, so designated on the
23 certificate of delivery or certificate of manu-
24 facture and delivery”; and

1 (ii) by striking the last sentence and
2 inserting the following: “The party transfer-
3 ring the merchandise shall maintain records
4 kept in the normal course of business to
5 demonstrate the transfer.”.

6 (i) *PACKAGING MATERIAL*.—Section 313(q) of the Tar-
7 iff Act of 1930 (19 U.S.C. 1313(q)) is amended—

8 (1) in paragraph (1), by striking “of 99 percent
9 of any duty, tax, or fee imposed under Federal law
10 on such imported material” and inserting “in an
11 amount calculated pursuant to regulations prescribed
12 by the Secretary of the Treasury under subsection
13 (l)”;

14 (2) in paragraph (2), by striking “of 99 percent
15 of any duty, tax, or fee imposed under Federal law
16 on the imported or substituted merchandise used to
17 manufacture or produce such material” and inserting
18 “in an amount calculated pursuant to regulations
19 prescribed by the Secretary of the Treasury under
20 subsection (l)”;

21 (3) in paragraph (3), by striking “they contain”
22 and inserting “it contains”.

23 (j) *FILING OF DRAWBACK CLAIMS*.—Section 313(r) of
24 the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended—

25 (1) in paragraph (1)—

1 (A) by striking the first sentence and insert-
2 ing the following: “A drawback entry shall be
3 filed or applied for, as applicable, not later than
4 5 years after the date on which merchandise on
5 which drawback is claimed was imported.”;

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

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

11 (2) in paragraph (3)—

12 (A) in subparagraph (A)—

13 (i) in the matter preceding clause (i),
14 by striking “The Customs Service” and in-
15 serting “U.S. Customs and Border Protec-
16 tion”;

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

21 (iii) in clause (ii)(I), by striking “3-
22 year” and inserting “5-year”; and

23 (B) in subparagraph (B), by striking “the
24 periods of time for retaining records set forth in
25 subsection (t) of this section and” and inserting

1 *“the period of time for retaining records set forth*
2 *in”*; and

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

4 *“(4) All drawback claims filed on and after the*
5 *date that is 2 years after the date of the enactment*
6 *of the Trade Facilitation and Trade Enforcement Act*
7 *of 2015 (or, if later, the effective date provided for in*
8 *section 906(q)(2)(B) of that Act) shall be filed elec-*
9 *tronically.”.*

10 (k) *DESIGNATION OF MERCHANDISE BY SUCCESSOR.—*

11 *Section 313(s) of the Tariff Act of 1930 (19 U.S.C. 1313(s))*

12 *is amended—*

13 (1) *in paragraph (2), by striking subparagraph*
14 *(B) and inserting the following:*

15 *“(B) subject to paragraphs (5) and (6) of*
16 *subsection (j), imported merchandise, other mer-*
17 *chandise classifiable under the same 8-digit HTS*
18 *subheading number as such imported merchan-*
19 *dise, or any combination of such imported mer-*
20 *chandise and such other merchandise, that the*
21 *predecessor received, before the date of succession,*
22 *from the person who imported and paid any du-*
23 *ties, taxes, and fees due on the imported mer-*
24 *chandise;”*; and

1 (2) in paragraph (4), by striking “certifies that”
2 and all that follows and inserting “certifies that the
3 transferred merchandise was not and will not be
4 claimed by the predecessor.”.

5 (l) *DRAWBACK CERTIFICATES*.—Section 313 of the
6 *Tariff Act of 1930 (19 U.S.C. 1313)* is amended by striking
7 subsection (t).

8 (m) *DRAWBACK FOR RECOVERED MATERIALS*.—Sec-
9 tion 313(x) of the *Tariff Act of 1930 (19 U.S.C. 1313(x))*
10 is amended by striking “and (c)” and inserting “(c), and
11 (j)”.

12 (n) *DEFINITIONS*.—Section 313 of the *Tariff Act of*
13 *1930 (19 U.S.C. 1313)* is amended by adding at the end
14 the following:

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

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

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

21 “(3) *INDIRECTLY*.—The term ‘indirectly’ means
22 a transfer of merchandise or an article from one per-
23 son to another person with one or more intermediate
24 transfers.”.

1 (o) *RECORDKEEPING.*—Section 508(c)(3) of the Tariff
2 Act of 1930 (19 U.S.C. 1508(c)(3)) is amended—

3 (1) by striking “3rd” and inserting “5th”; and

4 (2) by striking “payment” and inserting “liq-
5 uidation”.

6 (p) *GOVERNMENT ACCOUNTABILITY OFFICE RE-*
7 *PORT.*—

8 (1) *IN GENERAL.*—Not later than one year after
9 the issuance of the regulations required by subsection
10 (l)(2) of section 313 of the Tariff Act of 1930, as
11 added by subsection (g) of this section, the Comp-
12 troller General of the United States shall submit to
13 the Committee on Finance of the Senate and the Com-
14 mittee on Ways and Means of the House of Represent-
15 atives a report on the modernization of drawback and
16 refunds under section 313 of the Tariff Act of 1930,
17 as amended by this section.

18 (2) *CONTENTS.*—The report required by para-
19 graph (1) include the following:

20 (A) An assessment of the modernization of
21 drawback and refunds under section 313 of the
22 Tariff Act of 1930, as amended by this section.

23 (B) A description of drawback claims that
24 were permissible before the effective date provided
25 for in subsection (q) that are not permissible

1 *after that effective date and an identification of*
2 *industries most affected.*

3 (C) *A description of drawback claims that*
4 *were not permissible before the effective date pro-*
5 *vided for in subsection (q) that are permissible*
6 *after that effective date and an identification of*
7 *industries most affected.*

8 (q) *EFFECTIVE DATE.—*

9 (1) *IN GENERAL.—The amendments made by*
10 *this section shall—*

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

13 (B) *apply to drawback claims filed on or*
14 *after the date that is 2 years after such date of*
15 *enactment.*

16 (2) *REPORTING OF OPERABILITY OF AUTOMATED*
17 *COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Not*
18 *later than one year after the date of the enactment of*
19 *this Act, and not later than 2 years after such date*
20 *of enactment, the Secretary of the Treasury shall sub-*
21 *mit to Congress a report on—*

22 (A) *the date on which the Automated Com-*
23 *mercial Environment will be ready to process*
24 *drawback claims; and*

1 (B) the date on which the Automated Ex-
 2 port System will be ready to accept proof of ex-
 3 portation under subsection (i) of section 313 of
 4 the Tariff Act of 1930, as amended by subsection
 5 (d).

6 (3) *TRANSITION RULE.*—During the one-year pe-
 7 riod beginning on the date that is 2 years after the
 8 date of the enactment of this Act (or, if later, the ef-
 9 fective date provided for in paragraph (2)(B)), a per-
 10 son may elect to file a claim for drawback under—

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

13 (B) section 313 of the Tariff Act of 1930, as
 14 in effect on the day before the date of the enact-
 15 ment of this Act.

16 **SEC. 907. OFFICE OF THE UNITED STATES TRADE REP-**
 17 **RESENTATIVE.**

18 (a) *ANNUAL REPORT ON TRADE AGREEMENTS PRO-*
 19 *GRAM AND NATIONAL TRADE POLICY AGENDA.*—Section
 20 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is
 21 amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (A), by striking “and”
 24 at the end;

1 (B) in subparagraph (B), by striking the
2 period at the end and inserting “; and”; and

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

4 “(C) the operation of all United States
5 Trade Representative-led interagency programs
6 during the preceding year and for the year in
7 which the report is submitted.”; and

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

9 “(4) The report shall include, with respect to the
10 matters referred to in paragraph (1)(C), information
11 regarding—

12 “(A) the objectives and priorities of all
13 United States Trade Representative-led inter-
14 agency programs for the year, and the reasons
15 therefor;

16 “(B) the actions proposed, or anticipated, to
17 be undertaken during the year to achieve such
18 objectives and priorities, including actions au-
19 thorized under the trade laws and negotiations
20 with foreign countries;

21 “(C) the role of each Federal agency partici-
22 pating in the interagency program in achieving
23 such objectives and priorities and activities of
24 each agency with respect to their participation
25 in the program;

1 “(D) the United States Trade Representa-
2 tive’s coordination of each participating Federal
3 agency to more effectively achieve such objectives
4 and priorities;

5 “(E) any proposed legislation necessary or
6 appropriate to achieve any of such objectives or
7 priorities; and

8 “(F) the progress that was made during the
9 preceding year in achieving such objectives and
10 priorities and coordination activities included in
11 the statement provided for such year under this
12 paragraph.”.

13 (b) *RESOURCE MANAGEMENT AND STAFFING PLANS.*—

14 (1) *ANNUAL PLAN.*—

15 (A) *IN GENERAL.*—*The United States Trade*
16 *Representative shall on an annual basis develop*
17 *a plan—*

18 (i) *to match available resources of the*
19 *Office of the United States Trade Represent-*
20 *ative to projected workload and provide a*
21 *detailed analysis of how the funds allocated*
22 *from the prior fiscal year to date have been*
23 *spent;*

24 (ii) *to identify existing staff of the Of-*
25 *fice and new staff that will be necessary to*

1 support the trade negotiation and enforce-
2 ment functions and powers of the Office (in-
3 cluding those of the Trade Policy Staff
4 Committee) as described in section 141 of
5 the Trade Act of 1974 (19 U.S.C. 2171) and
6 section 301 of the Trade Act of 1974 (19
7 U.S.C. 2411);

8 (iii) to identify existing staff of the Of-
9 fice and staff of other Federal agencies who
10 will be required to be detailed to support
11 United States Trade Representative-led
12 interagency programs, including any asso-
13 ciated expenses; and

14 (iv) to provide a detailed analysis of
15 the budgetary requirements of United States
16 Trade Representative-led interagency pro-
17 grams for the next fiscal year and provide
18 a detailed analysis of how the funds allo-
19 cated from the prior fiscal year to date have
20 been spent.

21 (B) REPORT.—The United States Trade
22 Representative shall submit to the Committee on
23 Ways and Means and the Committee on Appro-
24 priations of the House of Representatives and the
25 Committee on Finance and the Committee on

1 *Appropriations of the Senate a report that con-*
2 *tains the plan required under subparagraph (A).*
3 *The report required under this subparagraph*
4 *shall be submitted in conjunction with the an-*
5 *annual budget of the United States Government re-*
6 *quired to be submitted to Congress under section*
7 *1105 of title 31, United States Code.*

8 (2) *QUADRENNIAL PLAN.*—

9 (A) *IN GENERAL.*—*Pursuant to the goals*
10 *and objectives of the strategic plan of the Office*
11 *of the United States Trade Representative as re-*
12 *quired under section 306 of title 5, United States*
13 *Code, the United States Trade Representative*
14 *shall every 4 years develop a plan—*

15 (i) *to analyze internal quality controls*
16 *and record management of the Office;*

17 (ii) *to identify existing staff of the Of-*
18 *fice and new staff that will be necessary to*
19 *support the trade negotiation and enforce-*
20 *ment functions and powers of the Office (in-*
21 *cluding those of the Trade Policy Staff*
22 *Committee) as described in section 141 of*
23 *the Trade Act of 1974 (19 U.S.C. 2171) and*
24 *section 301 of the Trade Act of 1974 (19*
25 *U.S.C. 2411);*

1 (iii) to identify existing staff of the Of-
2 fice and staff in other Federal agencies who
3 will be required to be detailed to support
4 United States Trade Representative-led
5 interagency programs, including any asso-
6 ciated expenses;

7 (iv) to provide an outline of budget
8 justifications, including salaries and ex-
9 penses as well as non-personnel administra-
10 tive expenses, for the fiscal years required
11 under the strategic plan; and

12 (v) to provide an outline of budget jus-
13 tifications, including salaries and expenses
14 as well as non-personnel administrative ex-
15 penses, for United States Trade Representa-
16 tive-led interagency programs for the fiscal
17 years required under the strategic plan.

18 (B) REPORT.—

19 (i) IN GENERAL.—The United States
20 Trade Representative shall submit to the
21 Committee on Ways and Means and the
22 Committee on Appropriations of the House
23 of Representatives and the Committee on
24 Finance and the Committee on Appropria-
25 tions of the Senate a report that contains

1 the plan required under subparagraph (A).
2 Except as provided in clause (ii), the report
3 required under this clause shall be sub-
4 mitted in conjunction with the strategic
5 plan of the Office as required under section
6 306 of title 5, United States Code.

7 (ii) *EXCEPTION.*—The United States
8 Trade Representative shall submit to the
9 congressional committees specified in clause
10 (i) an initial report that contains the plan
11 required under subparagraph (A) not later
12 than February 1, 2016.

13 **SEC. 908. UNITED STATES-ISRAEL TRADE AND COMMERCIAL**
14 **ENHANCEMENT.**

15 (a) *FINDINGS.*—Congress finds the following:

16 (1) *Israel is America’s dependable, democratic*
17 *ally in the Middle East—an area of paramount stra-*
18 *tegic importance to the United States.*

19 (2) *The United States-Israel Free Trade Agree-*
20 *ment formed the modern foundation of the bilateral*
21 *commercial relationship between the two countries*
22 *and was the first such agreement signed by the*
23 *United States with a foreign country.*

24 (3) *The United States-Israel Free Trade Agree-*
25 *ment has been instrumental in expanding commerce*

1 *and the strategic relationship between the United*
2 *States and Israel.*

3 (4) *More than \$45 billion in goods and services*
4 *is traded annually between the two countries in addi-*
5 *tion to roughly \$10 billion in United States foreign*
6 *direct investment in Israel.*

7 (5) *The United States continues to look for and*
8 *find new opportunities to enhance cooperation with*
9 *Israel, including through the enactment of the United*
10 *States-Israel Enhanced Security Cooperation Act of*
11 *2012 (Public Law 112–150) and the United States-*
12 *Israel Strategic Partnership Act of 2014 (Public Law*
13 *113–296).*

14 (6) *It has been the policy of the United States*
15 *Government to combat all elements of the Arab*
16 *League Boycott of Israel by—*

17 (A) *public statements of Administration of-*
18 *ficials;*

19 (B) *enactment of relevant sections of the*
20 *Export Administration Act of 1979 (as contin-*
21 *ued in effect pursuant to the International*
22 *Emergency Economic Powers Act), including*
23 *sections to ensure foreign persons comply with*
24 *applicable reporting requirements relating to the*
25 *boycott;*

1 (C) enactment of the 1976 Tax Reform Act
2 (Public Law 94-455) that denies certain tax
3 benefits to entities abiding by the boycott;

4 (D) ensuring through free trade agreements
5 with Bahrain and Oman that such countries no
6 longer participate in the boycott; and

7 (E) ensuring as a condition of membership
8 in the World Trade Organization that Saudi
9 Arabia no longer enforces the secondary or ter-
10 tiary elements of the boycott.

11 (b) STATEMENTS OF POLICY.—Congress—

12 (1) supports the strengthening of United States-
13 Israel economic cooperation and recognizes the tre-
14 mendous strategic, economic, and technological value
15 of cooperation with Israel;

16 (2) recognizes the benefit of cooperation with
17 Israel to United States companies, including by im-
18 proving American competitiveness in global markets;

19 (3) recognizes the importance of trade and com-
20 mercial relations to the pursuit and sustainability of
21 peace, and supports efforts to bring together the
22 United States, Israel, the Palestinian territories, and
23 others in enhanced commerce;

24 (4) opposes politically motivated actions that pe-
25 nalize or otherwise limit commercial relations specifi-

1 *cally with Israel such as boycotts, divestment or sanc-*
2 *tions;*

3 *(5) notes that the boycott, divestment, and sanc-*
4 *tioning of Israel by governments, governmental bodies,*
5 *quasi-governmental bodies, international organiza-*
6 *tions, and other such entities is contrary to the Gen-*
7 *eral Agreement on Tariffs and Trade (GATT) prin-*
8 *ciple of non-discrimination;*

9 *(6) encourages the inclusion of politically moti-*
10 *vated actions that penalize or otherwise limit com-*
11 *mercial relations specifically with Israel such as boy-*
12 *cotts, divestment from, or sanctions against Israel as*
13 *a topic of discussion at the U.S.-Israel Joint Eco-*
14 *nomie Development Group (JEDG) and other areas*
15 *to support the strengthening of the United States-*
16 *Israel commercial relationship and combat any com-*
17 *mercial discrimination against Israel;*

18 *(7) supports efforts to prevent investigations or*
19 *prosecutions by governments or international organi-*
20 *zations of United States persons on the sole basis of*
21 *such persons doing business with Israel, with Israeli*
22 *entities, or in Israeli-controlled territories; and*

23 *(8) supports American States examining a com-*
24 *pany's promotion or compliance with unsanctioned*
25 *boycotts, divestment from, or sanctions against Israel*

1 *as part of its consideration in awarding grants and*
2 *contracts and supports the divestment of State assets*
3 *from companies that support or promote actions to*
4 *boycott, divest from, or sanction Israel.*

5 *(c) PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF*
6 *THE UNITED STATES.—*

7 *(1) COMMERCIAL PARTNERSHIPS.—Among the*
8 *principal trade negotiating objectives of the United*
9 *States for proposed trade agreements with foreign*
10 *countries regarding commercial partnerships are the*
11 *following:*

12 *(A) To discourage actions by potential trad-*
13 *ing partners that directly or indirectly prejudice*
14 *or otherwise discourage commercial activity sole-*
15 *ly between the United States and Israel.*

16 *(B) To discourage politically motivated ac-*
17 *tions to boycott, divest from, or sanction Israel*
18 *and to seek the elimination of politically moti-*
19 *vated non-tariff barriers on Israeli goods, serv-*
20 *ices, or other commerce imposed on the State of*
21 *Israel.*

22 *(C) To seek the elimination of state-spon-*
23 *sored unsanctioned foreign boycotts against*
24 *Israel or compliance with the Arab League Boy-*
25 *cott of Israel by prospective trading partners.*

1 (2) *EFFECTIVE DATE.*—*This subsection takes ef-*
2 *fect on the date of the enactment of this Act and ap-*
3 *plies with respect to negotiations commenced before,*
4 *on, or after the date of the enactment of this Act.*

5 (d) *REPORT ON POLITICALLY MOTIVATED ACTS OF*
6 *BOYCOTT, DIVESTMENT FROM, AND SANCTIONS AGAINST*
7 *ISRAEL.*—

8 (1) *IN GENERAL.*—*Not later than 180 days after*
9 *the date of the enactment of this Act, and annually*
10 *thereafter, the President shall submit to Congress a re-*
11 *port on politically motivated acts of boycott, divest-*
12 *ment from, and sanctions against Israel.*

13 (2) *MATTERS TO BE INCLUDED.*—*The report re-*
14 *quired by paragraph (1) shall include the following:*

15 (A) *A description of the establishment of*
16 *barriers to trade, including non-tariff barriers,*
17 *investment, or commerce by foreign countries or*
18 *international organizations against United*
19 *States persons operating or doing business in*
20 *Israel, with Israeli entities, or in Israeli-con-*
21 *trolled territories.*

22 (B) *A description of specific steps being*
23 *taken by the United States to encourage foreign*
24 *countries and international organizations to*
25 *cease creating such barriers and to dismantle*

1 *measures already in place and an assessment of*
2 *the effectiveness of such steps.*

3 *(C) A description of specific steps being*
4 *taken by the United States to prevent investiga-*
5 *tions or prosecutions by governments or inter-*
6 *national organizations of United States persons*
7 *on the sole basis of such persons doing business*
8 *with Israel, with Israeli entities, or in Israeli-*
9 *controlled territories.*

10 *(D) Decisions by foreign persons, including*
11 *corporate entities and state-affiliated financial*
12 *institutions, that limit or prohibit economic rela-*
13 *tions with Israel or persons doing business in*
14 *Israel or in Israeli controlled territories.*

15 *(e) CERTAIN FOREIGN JUDGMENTS AGAINST UNITED*
16 *STATES PERSONS.—Notwithstanding any other provision*
17 *of law, no domestic court shall recognize or enforce any for-*
18 *ign judgment entered against a United States person that*
19 *conducts business operations in Israel, or any territory con-*
20 *trolled by Israel, if the domestic court determines that the*
21 *foreign judgment is based, in whole or in part, on a deter-*
22 *mination by a foreign court that the United States person's*
23 *conducting business operations therein or with Israeli enti-*
24 *ties constitutes a violation of law.*

25 *(f) DEFINITIONS.—In this section:*

1 (1) *BOYCOTT, DIVESTMENT FROM, AND SANCTIONS AGAINST ISRAEL.*—*The term “boycott, divestment from, and sanctions against Israel” means actions by states, non-member states of the United Nations, international organizations, or affiliated agencies of international organizations that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with Israel or persons doing business in Israel or in Israeli-controlled territories.*

11 (2) *DOMESTIC COURT.*—*The term “domestic court” means a Federal court of the United States, or a court of any State or territory of the United States or of the District of Columbia.*

15 (3) *FOREIGN COURT.*—*The term “foreign court” means a court, an administrative body, or other tribunal of a foreign country.*

18 (4) *FOREIGN JUDGMENT.*—*The term “foreign judgment” means a final civil judgment rendered by a foreign court.*

21 (5) *FOREIGN PERSON.*—*The term “foreign person” means—*

23 (A) *any natural person who is not lawfully*
24 *admitted for permanent residence (as defined in*
25 *section 101(a)(20) of the Immigration and Na-*

1 *tionality Act (8 U.S.C. 1101(a)(20)) or who is*
2 *not a protected individual (as defined in section*
3 *274B(a)(3) of such Act (8 U.S.C. 1324b(a)(3));*
4 *or*

5 *(B) any foreign corporation, business asso-*
6 *ciation, partnership, trust, society or any other*
7 *entity or group that is not incorporated or orga-*
8 *nized to do business in the United States, as well*
9 *as any international organization, foreign gov-*
10 *ernment and any agency or subdivision of for-*
11 *ign government, including a diplomatic mis-*
12 *sion.*

13 (6) *PERSON.*—

14 (A) *IN GENERAL.*—*The term “person”*
15 *means—*

16 (i) *a natural person;*

17 (ii) *a corporation, business association,*
18 *partnership, society, trust, financial institu-*
19 *tion, insurer, underwriter, guarantor, and*
20 *any other business organization, any other*
21 *nongovernmental entity, organization, or*
22 *group, and any governmental entity oper-*
23 *ating as a business enterprise; and*

24 (iii) *any successor to any entity de-*
25 *scribed in clause (ii).*

1 (B) *APPLICATION TO GOVERNMENTAL ENTI-*
2 *TIES.—The term “person” does not include a*
3 *government or governmental entity that is not*
4 *operating as a business enterprise.*

5 (7) *UNITED STATES PERSON.—The term “United*
6 *States person” means—*

7 (A) *a natural person who is a national of*
8 *the United States (as defined in section*
9 *101(a)(22) of the Immigration and Nationality*
10 *Act (8 U.S.C. 1101(a)(22)); or*

11 (B) *a corporation or other legal entity*
12 *which is organized under the laws of the United*
13 *States, any State or territory thereof, or the Dis-*
14 *trict of Columbia, if natural persons described in*
15 *subparagraph (A) own, directly or indirectly,*
16 *more than 50 percent of the outstanding capital*
17 *stock or other beneficial interest in such legal en-*
18 *tity.*

19 **SEC. 909. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**
20 **TION TO PROHIBITION ON IMPORTATION OF**
21 **GOODS MADE WITH CONVICT LABOR, FORCED**
22 **LABOR, OR INDENTURED LABOR; REPORT.**

23 (a) *ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-*
24 *TION.—*

1 (1) *IN GENERAL.*—Section 307 of the Tariff Act
2 of 1930 (19 U.S.C. 1307) is amended by striking
3 “The provisions of this section” and all that follows
4 through “of the United States.”.

5 (2) *EFFECTIVE DATE.*—The amendment made by
6 paragraph (1) shall take effect on the date that is 15
7 days after the date of the enactment of this Act.

8 (b) *REPORT REQUIRED.*—Not later than 180 days
9 after the date of the enactment of this Act, and annually
10 thereafter, the Commissioner shall submit to the Committee
11 on Finance of the Senate and the Committee on Ways and
12 Means of the House of Representatives a report on compli-
13 ance with section 307 of the Tariff Act of 1930 (19 U.S.C.
14 1307) that includes the following:

15 (1) *The number of instances in which merchan-*
16 *dise was denied entry pursuant to that section during*
17 *the 1-year period preceding the submission of the re-*
18 *port.*

19 (2) *A description of the merchandise denied*
20 *entry pursuant to that section.*

21 (3) *Such other information as the Commissioner*
22 *considers appropriate with respect to monitoring and*
23 *enforcing compliance with that section.*

1 **SEC. 910. CUSTOMS USER FEES.**

2 (a) *IN GENERAL.*—Section 13031(j)(3) of the Consoli-
3 dated Omnibus Budget Reconciliation Act of 1985 (19
4 U.S.C. 58c(j)(3)) is amended by adding at the end the fol-
5 lowing:

6 “(C) Fees may be charged under paragraphs (9) and
7 (10) of subsection (a) during the period beginning on July
8 8, 2025, and ending on July 28, 2025.”.

9 (b) *RATE FOR MERCHANDISE PROCESSING FEES.*—
10 Section 503 of the United States–Korea Free Trade Agree-
11 ment Implementation Act (Public Law 112–41; 125 Stat.
12 460) is amended—

13 (1) by striking “For the period” and inserting

14 “(a) *IN GENERAL.*—For the period”; and

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

16 “(b) *ADDITIONAL PERIOD.*—For the period beginning
17 on July 1, 2025, and ending on July 14, 2025, section
18 13031(a)(9) of the Consolidated Omnibus Budget Reconcili-
19 ation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied
20 and administered—

21 “(1) in subparagraph (A), by substituting
22 ‘0.3464’ for ‘0.21’; and

23 “(2) in subparagraph (B)(i), by substituting
24 ‘0.3464’ for ‘0.21’.”.

1 **SEC. 911. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER**
2 **PROTECTION AGREEMENTS.**

3 (a) *IN GENERAL.*—Not later than one year after enter-
4 ing into an agreement under a program specified in sub-
5 section (b), and annually thereafter until the termination
6 of the program, the Commissioner shall submit to the Com-
7 mittee on Finance of the Senate, the Committee on Ways
8 and Means of the House of Representatives, the Committee
9 on Homeland Security and Governmental Affairs of the
10 Senate, and the Committee on Homeland Security of the
11 House of Representatives a report that includes the fol-
12 lowing:

13 (1) *A description of the development of the pro-*
14 *gram.*

15 (2) *A description of the type of entity with which*
16 *U.S. Customs and Border Protection entered into the*
17 *agreement and the amount that entity reimbursed*
18 *U.S. Customs and Border Protection under the agree-*
19 *ment.*

20 (3) *An identification of the type of port of entry*
21 *to which the agreement relates and an assessment of*
22 *how the agreement provides economic benefits at the*
23 *port of entry.*

24 (4) *A description of the services provided by U.S.*
25 *Customs and Border Protection under the agreement*

1 *during the year preceding the submission of the re-*
2 *port.*

3 (5) *The amount of fees collected under the agree-*
4 *ment during that year.*

5 (6) *A detailed accounting of how the fees col-*
6 *lected under the agreement have been spent during*
7 *that year.*

8 (7) *A summary of any complaints or criticism*
9 *received by U.S. Customs and Border Protection dur-*
10 *ing that year regarding the agreement.*

11 (8) *An assessment of the compliance of the entity*
12 *described in paragraph (2) with the terms of the*
13 *agreement.*

14 (9) *Recommendations with respect to how activi-*
15 *ties conducted pursuant to the agreement could func-*
16 *tion more effectively or better produce economic bene-*
17 *fits.*

18 (10) *A summary of the benefits to and challenges*
19 *faced by U.S. Customs and Border Protection and the*
20 *entity described in paragraph (2) under the agree-*
21 *ment.*

22 (b) *PROGRAM SPECIFIED.*—*A program specified in*
23 *this subsection is—*

24 (1) *the program for entering into reimbursable*
25 *fee agreements for the provision of U.S. Customs and*

1 *Border Protection services established by section 560*
2 *of the Department of Homeland Security Appropria-*
3 *tions Act, 2013 (division D of Public Law 113–6; 127*
4 *Stat. 378); or*

5 *(2) the pilot program authorizing U.S. Customs*
6 *and Border Protection to enter into partnerships with*
7 *private sector and government entities at ports of*
8 *entry established by section 559 of the Department of*
9 *Homeland Security Appropriations Act, 2014 (divi-*
10 *sion F of Public Law 113–76; 6 U.S.C. 211 note).*

11 **SEC. 912. AMENDMENTS TO BIPARTISAN CONGRESSIONAL**
12 **TRADE PRIORITIES AND ACCOUNTABILITY**
13 **ACT OF 2015.**

14 *(a) IMMIGRATION LAWS OF THE UNITED STATES.—*
15 *Section 102(a) of the Bipartisan Congressional Trade Pri-*
16 *orities and Accountability Act of 2015 is amended—*

17 *(1) in paragraph (12), by striking “and” at the*
18 *end;*

19 *(2) in paragraph (13), by striking the period at*
20 *the end and inserting “; and”; and*

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

22 *“(14) to ensure that trade agreements do not re-*
23 *quire changes to the immigration laws of the United*
24 *States or obligate the United States to grant access or*
25 *expand access to visas issued under section 101(a)(15)*

1 *of the Immigration and Nationality Act (8 U.S.C.*
2 *1101(a)(15)).”.*

3 **(b) GLOBAL WARMING.**—*Section 102(a) of the Bipar-*
4 *tisan Congressional Trade Priorities and Accountability*
5 *Act of 2015, as amended by subsection (a) of this section,*
6 *is amended—*

7 (1) *in paragraph (13), by striking “and” at the*
8 *end;*

9 (2) *in paragraph (14), by striking the period at*
10 *the end and inserting “; and”; and*

11 (3) *by adding at the end the following:*

12 “(15) *to ensure that trade agreements do not re-*
13 *quire changes to U.S. law or obligate the United*
14 *States with respect to global warming or climate*
15 *change.”.*

16 **(c) FISHERIES NEGOTIATIONS.**—*Section 102(b) of the*
17 *Bipartisan Congressional Trade Priorities and Account-*
18 *ability Act of 2015 is amended by adding at the end the*
19 *following:*

20 “(22) **FISHERIES NEGOTIATIONS.**—*The principal*
21 *negotiating objectives of the United States with re-*
22 *spect to trade in fish, seafood, and shellfish products*
23 *are to obtain competitive opportunities for United*
24 *States exports of fish, seafood, and shellfish products*
25 *in foreign markets substantially equivalent to the*

1 *competitive opportunities afforded foreign exports of*
2 *fish, seafood, and shellfish products in United States*
3 *markets and to achieve fairer and more open condi-*
4 *tions of trade in fish, seafood, and shellfish products,*
5 *including by reducing or eliminating tariff and non-*
6 *tariff barriers and eliminating subsidies that distort*
7 *trade.”.*

8 *(d) ACCREDITATION.—Section 104(c)(2)(C) of the Bi-*
9 *partisan Congressional Trade Priorities and Accountability*
10 *Act of 2015 is amended by inserting after the first sentence*
11 *the following: “In addition, the chairman and ranking*
12 *members described in subparagraphs (A)(i) and (B)(i) shall*
13 *each be permitted to designate up to 3 personnel with prop-*
14 *er security clearances to serve as delegates to such negotia-*
15 *tions.”.*

16 *(e) TRAFFICKING IN PERSONS.—Section 106(b)(6) of*
17 *the Bipartisan Congressional Trade Priorities and Ac-*
18 *countability Act of 2015 is amended—*

19 *(1) by redesignating subparagraph (B) as sub-*
20 *paragraph (C); and*

21 *(2) by inserting after subparagraph (A) the fol-*
22 *lowing:*

23 *“(B) EXCEPTION.—*

24 *“(i) INVOKING EXCEPTION.—If the*
25 *President submits to the appropriate con-*

1 *gressional committees a letter stating that a*
2 *country to which subparagraph (A) applies*
3 *has taken concrete actions to implement the*
4 *principal recommendations with respect to*
5 *that country in the most recent annual re-*
6 *port on trafficking in persons, this para-*
7 *graph shall not apply with respect to agree-*
8 *ments with that country.*

9 “(ii) *CONTENT OF LETTER; PUBLIC*
10 *AVAILABILITY.—A letter submitted under*
11 *clause (i) with respect to a country shall—*

12 “(I) *include a description of the*
13 *concrete actions that the country has*
14 *taken to implement the principal rec-*
15 *ommendations described in clause (i);*
16 *and*

17 “(II) *be made available to the*
18 *public.*

19 “(iii) *APPROPRIATE CONGRESSIONAL*
20 *COMMITTEES DEFINED.—In this subpara-*
21 *graph, the term ‘appropriate congressional*
22 *committees’ means—*

23 “(I) *the Committee on Ways and*
24 *Means and the Committee on Foreign*

1 *Affairs of the House of Representatives;*
2 *and*

3 *“(II) the Committee on Finance*
4 *and the Committee on Foreign Rela-*
5 *tions of the Senate.”;*

6 *(f) TECHNICAL AMENDMENTS.—The Bipartisan Con-*
7 *gressional Trade Priorities and Accountability Act of 2015*
8 *is amended—*

9 *(1) in section 105(b)(3)—*

10 *(A) in subparagraph (A)(ii), by striking*
11 *“section 102(b)(16)” and inserting “section*
12 *102(b)(17)”;* *and*

13 *(B) in subparagraph (B)(ii), by striking*
14 *“section 102(b)(16)” and inserting “section*
15 *102(b)(17)”;* *and*

16 *(2) in section 106(b)(5), by striking “section*
17 *102(b)(15)(C)” and inserting “section 102(b)(16)(C)”.*

18 *(g) EFFECTIVE DATE.—The amendments made by this*
19 *section shall take effect as if included in the enactment of*
20 *the Bipartisan Congressional Trade Priorities and Ac-*
21 *countability Act of 2015.*

1 **SEC. 913. CERTAIN INTEREST TO BE INCLUDED IN DIS-**
2 **TRIBUTIONS UNDER CONTINUED DUMPING**
3 **AND SUBSIDY OFFSET ACT OF 2000.**

4 (a) *IN GENERAL.*—Notwithstanding any other provi-
5 sion of law, the Commissioner shall include in all distribu-
6 tions of collected antidumping and countervailing duties
7 described in subsection (b) all interest earned on such du-
8 ties, including—

9 (1) *interest accrued under section 778 of the Tar-*
10 *iff Act of 1930 (19 U.S.C. 1677g),*

11 (2) *interest accrued under section 505(d) of the*
12 *Tariff Act of 1930 (19 U.S.C. 1505(d)), and*

13 (3) *common-law equitable interest, and all inter-*
14 *est under section 963 of the Revised Statutes of the*
15 *United States (19 U.S.C. 580), awarded by a court*
16 *against a surety's late payment of antidumping or*
17 *countervailing duties and interest described in para-*
18 *graph (1) or (2), under its bond,*

19 *which is, or was, realized through application of any pay-*
20 *ment received on or after October 1, 2014, by U.S. Customs*
21 *and Border Protection under, or in connection with, any*
22 *customs bond pursuant to a court order or judgment, or*
23 *any settlement for any such bond.*

24 (b) *DISTRIBUTIONS DESCRIBED.*—*The distributions*
25 *described in subsection (a) are all distributions made on*
26 *or after the date of the enactment of this Act pursuant to*

1 *section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c) (as*
2 *such section was in effect on February 7, 2006) of collected*
3 *antidumping and countervailing duties assessed on or after*
4 *October 1, 2000, on entries made through September 30,*
5 *2007.*

6 **SEC. 914. REPORT ON COMPETITIVENESS OF U.S. REC-**
7 **REATIONAL PERFORMANCE OUTERWEAR IN-**
8 **DUSTRY.**

9 *Not later than June 1, 2016, the United States Inter-*
10 *national Trade Commission shall submit to the Committee*
11 *on Finance of the Senate and the Committee on Ways and*
12 *Means of the House of Representatives a report on the com-*
13 *petitiveness of the United States recreational performance*
14 *outwear industry and its effects on the United States econ-*
15 *omy, including an assessment of duty structures on inputs*
16 *as well as finished products and global supply chains.*

17 **SEC. 915. INCREASE IN PENALTY FOR FAILURE TO FILE RE-**
18 **TURN OF TAX.**

19 *(a) IN GENERAL.—Section 6651(a) of the Internal*
20 *Revenue Code of 1986 is amended by striking “\$135” in*
21 *the last sentence and inserting “\$205”.*

22 *(b) CONFORMING AMENDMENT.—Section 6651(i) of*
23 *such Code is amended by striking “\$135” and inserting*
24 *“\$205”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to returns required to be filed in cal-*
3 *endar years after 2015.*

Attest:

Clerk.

114TH CONGRESS
1ST SESSION

H.R. 644

**HOUSE AMENDMENT TO
SENATE AMENDMENT**