

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE BILL (H.R. 1314) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO PROVIDE FOR A RIGHT TO AN ADMINISTRATIVE APPEAL RELATING TO ADVERSE DETERMINATIONS OF TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS, AND PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENTS TO THE BILL (H.R. 644) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO PERMANENTLY EXTEND AND EXPAND THE CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY

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JUNE 11 (legislative day, JUNE 10), 2015.—Referred to the House Calendar and ordered to be printed

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Mr. SESSIONS, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 305]

The Committee on Rules, having had under consideration House Resolution 305, by a record vote of 9 to 4, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to H.R. 1314, the Trade Act of 2015. The resolution makes in order a motion offered by the chair of the Committee on Ways and Means or his designee that the House concur in the Senate amendment to H.R. 1314. The resolution waives all points of order against consideration of the motion. The resolution provides that the Senate amendment and the motion shall be considered as read. The resolution provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution provides that the question on adoption of the motion shall be divided as follows: (1) concurring in section 212 of the Senate amendment; (2) concurring in the matter comprising the remainder of title II of the Senate amendment; and (3) concurring in the matter preceding title II of the Senate amendment. The resolution provides that the first portion of the divided question shall be considered as adopted. The resolution provides that if any remaining portion of the divided question fails, then the House shall be considered to have made no disposition of the Senate amendment.

Section 2 of the resolution provides for the consideration of the Senate amendments to H.R. 644. The resolution makes in order a single motion offered by the chair of the Committee on Ways and Means or his designee that the House: (1) concur in the Senate amendment to the title; and (2) concur in the Senate amendment to the text with the amendment printed in part A of this report modified by the amendment printed in part B of this report. The resolution waives all points of order against consideration of the motion and provides that the motion is not subject to a demand for division of the question. The resolution provides that the Senate amendments and the motion shall be considered as read. The resolution provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution provides that if the motion is adopted, the chair of the Committee on Ways and Means or his designee is then authorized to move that the House insist on its amendment to the Senate amendment to the text of H.R. 644 and request a conference with the Senate thereon.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion related to H.R. 1314 includes a waiver of section 306 of the Congressional Budget Act of 1974, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee.

Although the resolution waives all points of order against consideration of the motion related to H.R. 644, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 64*

Motion by Ms. Slaughter to make in order and provide the appropriate waivers for amendment #18 to H.R. 1314, offered by Rep. Slaughter (NY), Rep. Pascrell Jr. (NJ), Rep. Edwards (MD), Rep. DeFazio (OR), and Rep. DeLauro (CT), which prohibits fast track for trade agreements that permit the import of food, feed, or food ingredients or products that do not meet or exceed U.S. standards with respect to food safety, pesticides, inspections, packaging, and labeling into the United States from a country that is a party to the trade agreement. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 65*

Motion by Mr. McGovern to amend the rule so that the Ryan amendments to H.R. 644 and H.R. 1295, as well as the Senate amendment to H.R. 1314, are all subject to amendment on the floor, and considered under an open process. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 66*

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendments to H.R. 1314: amendment #20, offered by Rep. Doggett (TX), which ensures maximum accessibility to trade texts; amendment #21, offered by Rep. Doggett (TX), which strips fast track authority from any agreement that fails to improve the investor state dispute settlement system; and amendment #22, offered by Rep. Doggett (TX) and Rep. Tonko (NY), which strips fast track authority from an agreement that fails to require the parties to adopt, maintain, and implement all seven multilateral environmental agreements. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 67*

Motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers for amendments to H.R. 1314: amendment #1, offered by Rep. Pocan (WI), Rep. Slaughter (NY), and Rep. DeFazio (OR), which prevents fast-track procedures in the underlying bill from applying to trade deals that include Investor-State Dispute Settlements (ISDS) provisions, which allow foreign companies to challenge U.S. laws and undermine U.S. sovereignty; amendment #9, offered by Rep. Lipinski (IL) and Rep. Jones (NC), which provides that protecting Buy American, Buy America, and Buy Local provisions are negotiating objectives for the United States Trade Representative as it negotiates free trade agreements under this bill; amendment #16, offered by Rep. Levin (MI), which ensures that fast track procedures only apply to the Trans-Pacific Partnership if, among other things, Congress determines that the final agreement satisfies detailed negotiating instructions regarding the outstanding issues in the negotiations; amendment #24, of-

ferred by Rep. Tonko (NY), which adds climate change mitigation to the labor and environment negotiating objectives; amendment #25, offered by Rep. Cicilline (RI), Rep. Maloney (NY), Rep. Pocan (WI), Rep. Sánchez (CA), and Rep. Lynch (MA), which prohibits the President from entering into trade agreements under this act with countries that have an established penal code that legalizes violence, criminalization, or execution of lesbian, gay, bisexual and transgendered individuals by reason of their actual or perceived sexual orientation or gender identity; amendment #27, offered by Rep. Lewis (GA) and Rep. Edwards (MD), which provides instructions on labor and human rights and add a procedure where, if appropriate, human rights legislation may be added to an implementing bill; and amendment #61, offered by Rep. Becerra (CA), which provides that fast track procedures will not apply to a trade agreement that does not include explicit protections for government health policies and programs, such as Medicare and Medicaid, from investment disputes. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

#### *Rules Committee record vote No. 68*

Motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers for amendment #26 to H.R. 1314, offered by Rep. Clawson (FL), Rep. Mulvaney (SC), Rep. Maloney (NY), Rep. Norcross (NJ), Rep. Tonko (NY), Rep. Pocan (WI), Rep. Perry (PA), Rep. Sensenbrenner Jr. (WI), Rep. Kaptur (OH), Rep. Dingell (MI), Rep. Walberg (MI), Rep. Duncan (SC), Rep. Slaughter (NY), Rep. Jones (NC), Rep. Brat (VA), Rep. Posey (FL), Rep. Brooks (AL), Rep. Kennedy (MA), Rep. Lawrence (MI), Rep. Franks (AZ), Rep. Kelly (IL), and Rep. Kildee (MI), which addresses the practice of currency manipulation in trade agreements. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

#### *Rules Committee record vote No. 69*

Motion by Mr. Polis to make in order and provide the appropriate waivers for amendments to H.R. 1314: amendment #3, offered by Rep. Polis (CO), which sets out limitations and exceptions to exclusive rights as principal negotiating objectives with regard

to trade-related intellectual property; amendment #4, offered by Rep. Polis (CO), which amends the underlying bill to include the prohibition of illegal trade in wildlife, timber, and marine resources as a negotiating objective; amendment #5, offered by Rep. Polis (CO), which requires the President to study the impacts of any new free trade agreement on global greenhouse gas emissions; amendment #7, offered by Rep. Polis (CO), which clarifies that foreign investors do not receive greater rights than domestic investors in trade agreements; and amendment #8, offered by Rep. Polis (CO), which clarifies that no foreign corporation has the right to repeal state, federal or local laws, including laws pertaining to public health and safety; as well as amendment #5 to H.R. 644, offered by Rep. Polis (CO), which expresses the sense of congress that the U.S. Trade Representative (USTR) should encourage other nations to follow the lead of the U.S. by increasing de minimis values to a commercially meaningful level. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Cole .....	Nay	Mr. McGovern .....	Yea
Mr. Woodall .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Burgess .....	Nay	Mr. Polis .....	Yea
Mr. Stivers .....	Nay		
Mr. Collins .....	Nay		
Mr. Byrne .....	Nay		
Mr. Newhouse .....	Nay		
Mr. Sessions, Chairman .....	Nay		

#### *Rules Committee record vote No. 70*

Motion by Ms. Foxx to report the rule. Adopted: 9–4

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Yea	Ms. Slaughter .....	Nay
Mr. Cole .....	Yea	Mr. McGovern .....	Nay
Mr. Woodall .....	Yea	Mr. Hastings of Florida .....	Nay
Mr. Burgess .....	Yea	Mr. Polis .....	Nay
Mr. Stivers .....	Yea		
Mr. Collins .....	Yea		
Mr. Byrne .....	Yea		
Mr. Newhouse .....	Yea		
Mr. Sessions, Chairman .....	Yea		

#### SUMMARY OF THE HOUSE AMENDMENT IN PART A TO THE SENATE AMENDMENT TO THE TEXT OF H.R. 644

Establishes U.S. Customs and Border Protection (CBP), provides tools to streamline and facilitate legitimate trade, improve trade enforcement, and measure progress within CBP. Strengthens Trade Promotion Authority (TPA) legislation and bolsters U.S.-Israel trade and commercial ties.

#### SUMMARY OF THE MODIFICATION IN PART B TO THE HOUSE AMENDMENT

Improves the currency title by reducing the Administration's discretion and clearly directing action by the Administration to address unfair currency practices. Requires the Administration to issue clear guidance on how it intends to assess the objective criteria within 90 days of the Amendment's enactment.

PART A—TEXT OF THE HOUSE AMENDMENT TO THE SENATE  
AMENDMENT TO THE TEXT OF H.R. 644

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

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

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

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

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

**TITLE I—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.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **AUTOMATED COMMERCIAL ENVIRONMENT.**—The term “Automated Commercial Environment” means the Automated Commercial Environment computer system authorized under section 13031(f)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(N) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

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

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

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

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

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

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

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

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

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

(X) Any other provision of law implementing a trade agreement.

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

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

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

(4) PRIVATE SECTOR ENTITY.—The term “private sector entity” means—

(A) an importer;

(B) an exporter;

(C) a forwarder;

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

(E) a contract logistics provider;

(F) a customs broker; or

(G) any other person (other than an employee of a government) affected by the implementation of the customs and trade laws of the United States.

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

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

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

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

(a) IN GENERAL.—In order to advance the security, trade enforcement, and trade facilitation missions of U.S. Customs and Border Protection, the Commissioner shall ensure that partnership programs of U.S. Customs and Border Protection established before the date of the enactment of this Act, such as the Customs–Trade Partnership Against Terrorism established under subtitle B of title II of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 961 et seq.), and partnership programs of U.S. Customs and Border Protection established on or after such date of enactment, provide trade benefits to private sector entities that meet the requirements for participation in those programs established by the Commissioner under this section.

(b) ELEMENTS.—In developing and operating partnership programs under subsection (a), the Commissioner shall—

(1) consult with private sector entities, the public, and other Federal agencies when appropriate, to ensure that participants in those programs receive commercially significant and measurable trade benefits, including providing pre-clearance of merchandise for qualified persons that demonstrate the highest levels of compliance with the customs and trade laws of the United States, regulations of U.S. Customs and Border Protection, and other requirements the Commissioner determines to be necessary;

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

(3) consider consolidating partnership programs in situations in which doing so would support the objectives of such programs, increase participation in such programs, enhance the trade benefits provided to participants in such programs, and enhance the allocation of the resources of U.S. Customs and Border Protection;

(4) coordinate with the Director of U.S. Immigration and Customs Enforcement, and other Federal agencies with authority to detain and release merchandise entering the United States—

(A) to ensure coordination in the release of such merchandise through the Automated Commercial Environment, or its predecessor, and the International Trade Data System;

(B) to ensure that the partnership programs of those agencies are compatible with the partnership programs of U.S. Customs and Border Protection;

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

(D) to create pathways, within and among the appropriate Federal agencies, for qualified persons that demonstrate the highest levels of compliance with the customs and trade laws of the United States to receive immediate clearance absent information that a transaction may pose a national security or compliance threat; and

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

(c) REPORT REQUIRED.—Not later than the date that is 180 days after the date of the enactment of this Act, and not later than December 31 of each calendar year thereafter, the Commissioner shall submit to the appropriate congressional committees a report that—

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

(2) for each such program, identifies—

(A) the requirements for participants in the program;

(B) the commercially significant and measurable trade benefits provided to participants in the program;

(C) the number of participants in the program; and

- (D) in the case of a program that provides for participation at multiple tiers, the number of participants at each such tier;
- (3) identifies the number of participants enrolled in more than one such partnership program;
- (4) assesses the effectiveness of each such partnership program in advancing the security, trade enforcement, and trade facilitation missions of U.S. Customs and Border Protection, based on historical developments, the level of participation in the program, and the evolution of benefits provided to participants in the program;
- (5) summarizes the efforts of U.S. Customs and Border Protection to work with other Federal agencies with authority to detain and release merchandise entering the United States to ensure that partnership programs of those agencies are compatible with partnership programs of U.S. Customs and Border Protection;
- (6) summarizes criteria developed with those agencies for authorizing the release, on an expedited basis, of merchandise for which documentation is required from one or more of those agencies to clear or license the merchandise for entry into the United States;
- (7) summarizes the efforts of U.S. Customs and Border Protection to work with private sector entities and the public to develop and improve partnership programs referred to in subsection (a);
- (8) describes measures taken by U.S. Customs and Border Protection to make private sector entities aware of the trade benefits available to participants in such programs; and
- (9) summarizes the plans, targets, and goals of U.S. Customs and Border Protection with respect to such programs for the 2 years following the submission of the report.

**SEC. 102. REPORT ON EFFECTIVENESS OF TRADE ENFORCEMENT ACTIVITIES.**

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

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

- (1) a description of the use of resources, results of audits and verifications, targeting, organization, and training of personnel of U.S. Customs and Border Protection; and
- (2) a description of trade enforcement activities to address undervaluation, transshipment, legitimacy of entities making entry, protection of revenues, fraud prevention and detection, and penalties, including intentional misclassification, inadequate bonding, and other misrepresentations.

**SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS FOR CUSTOMS MODERNIZATION, TRADE FACILITATION, AND TRADE ENFORCEMENT FUNCTIONS AND PROGRAMS.**

(a) PRIORITIES AND PERFORMANCE STANDARDS.—

- (1) IN GENERAL.—The Commissioner, in consultation with the appropriate congressional committees, shall establish prior-

ities and performance standards to measure the development and levels of achievement of the customs modernization, trade facilitation, and trade enforcement functions and programs described in subsection (b).

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

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

(1) The Automated Commercial Environment.

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

(3) The Centers of Excellence and Expertise described in section 110.

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

(5) Transactions relating to imported merchandise in bond.

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

(7) The expedited clearance of cargo.

(8) The issuance of regulations and rulings.

(9) The issuance of Regulatory Audit Reports.

(c) **CONSULTATIONS AND NOTIFICATION.**—

(1) **CONSULTATIONS.**—The consultations required by subsection (a)(1) shall occur, at a minimum, on an annual basis.

(2) **NOTIFICATION.**—The Commissioner shall notify the appropriate congressional committees of any changes to the priorities referred to in subsection (a) not later than 30 days before such changes are to take effect.

**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.**

(a) **IN GENERAL.**—

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

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

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

(C) otherwise improve the ability and effectiveness of U.S. Customs and Border Protection personnel and U.S. Immigration and Customs Enforcement personnel to facilitate legitimate international trade.

(b) **CONTENT.**—

(1) **CLASSIFYING AND APPRAISING IMPORTED ARTICLES.**—In carrying out subsection (a)(1)(A), the Commissioner, the Director, and interested parties in the private sector selected under

subsection (c) shall provide instruction and related instructional materials at each educational seminar under this section to U.S. Customs and Border Protection personnel and, as appropriate, to U.S. Immigration and Customs Enforcement personnel on the following:

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

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

(C) Customs valuation.

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

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

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

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

(C) Protection of intellectual property rights.

(D) Enforcement of child labor laws.

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

(c) SELECTION PROCESS.—

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

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

(A) availability and usefulness;

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

(C) other appropriate criteria established by the Commissioner.

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

(d) **SPECIAL RULE FOR ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.**—

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

(2) **INTERESTED PARTY.**—A petitioner described in paragraph (1) shall be treated as an interested party in the private sector for purposes of the requirements of this section.

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

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

(g) **DEFINITIONS.**—In this section:

(1) **DIRECTOR.**—The term “Director” means the Director of U.S. Immigration and Customs Enforcement.

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

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

(4) **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.**—The term “U.S. Immigration and Customs Enforcement personnel” means Homeland Security Investigations Directorate personnel and other appropriate employees of U.S. Immigration and Customs Enforcement.

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

(a) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, and every 2 years thereafter, the Commissioner and the Director of U.S. Immigration and Customs Enforcement shall jointly develop and submit to the appropriate congressional committees a joint strategic plan.

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

(1) a summary of actions taken during the 2-year period preceding the submission of the plan to improve trade enforcement and trade facilitation, including a description and analysis of specific performance measures to evaluate the progress of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement in meeting each such responsibility;

(2) a statement of objectives and plans for further improving trade enforcement and trade facilitation;

(3) a specific identification of the priority trade issues described in section 118, that can be addressed in order to en-

hance trade enforcement and trade facilitation, and a description of strategies and plans for addressing each such issue;

(4) a description of efforts made to improve consultation and coordination among and within Federal agencies, and in particular between U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, regarding trade enforcement and trade facilitation;

(5) a description of the training that has occurred to date within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement to improve trade enforcement and trade facilitation, including training under section 104;

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

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

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

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

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

(c) CONSULTATIONS.—

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

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

- (i) the Department of the Treasury;
- (ii) the Department of Agriculture;
- (iii) the Department of Commerce;
- (iv) the Department of Justice;
- (v) the Department of the Interior;
- (vi) the Department of Health and Human Services;
- (vii) the Food and Drug Administration;
- (viii) the Consumer Product Safety Commission; and
- (ix) the Office of the United States Trade Representative; and

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

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

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

(B) interested parties in the private sector.

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

(a) **FUNDING.**—Section 13031(f)(4)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)(B)) is amended—

(1) by striking “2003 through 2005” and inserting “2016 through 2018”;

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

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

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

“(3) **REPORT.**—

“(A) **IN GENERAL.**—Not later than December 31, 2016, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Appropriations and the Committee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives a report detailing—

“(i) U.S. Customs and Border Protection’s incorporation of all core trade processing capabilities, including cargo release, entry summary, cargo manifest, cargo financial data, and export data elements into the Automated Commercial Environment computer system authorized under section 13031(f)(4) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)) not later than September 30, 2016, to conform with the admissibility criteria of agencies participating in the International Trade Data System identified pursuant to section 411(d)(4)(A)(iii) of the Tariff Act of 1930;

“(ii) U.S. Customs and Border Protection’s remaining priorities for processing entry summary data elements, cargo manifest data elements, cargo financial data elements, and export elements in the Automated Commercial Environment computer system, and the objectives and plans for implementing these remaining priorities;

“(iii) the components of the National Customs Automation Program specified in subsection (a)(2) of section 411 of the Tariff Act of 1930 that have not been implemented; and

“(iv) any additional components of the National Customs Automation Program initiated by the Commissioner to complete the development, establishment, and implementation of the Automated Commercial Environment computer system.

“(B) **UPDATE OF REPORTS.**—Not later than September 30, 2017, the Commissioner shall submit to the Committee on Appropriations and the Committee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives an updated report addressing each of the matters referred to in subparagraph (A), and—

“(i) evaluating the effectiveness of the implementation of the Automated Commercial Environment computer system; and

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

(c) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than December 31, 2017, the Comptroller General of the United States shall submit to the Committee on Appropriations and the Committee on Finance of the Senate and the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives a report—

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

(2) assessing the potential cost savings to the United States Government and importers and exporters and the potential benefits to enforcement of the customs and trade laws of the United States if the elements identified in clauses (i) through (iv) of section 311(b)(3)(A) of the Customs Border Security Act of 2002, as amended by subsection (b) of this section, are implemented.

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

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

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

(2) by inserting after paragraph (3) the following:

“(4) INFORMATION TECHNOLOGY INFRASTRUCTURE.—

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

“(i) develops and maintains the necessary information technology infrastructure to support the operation of the ITDS and to submit all data to the ITDS electronically;

“(ii) enters into a memorandum of understanding, or takes such other action as is necessary, to provide for the information sharing between the agency and U.S. Customs and Border Protection necessary for the operation and maintenance of the ITDS;

“(iii) not later than June 30, 2016, identifies and transmits to the Commissioner of U.S. Customs and Border Protection the admissibility criteria and data elements required by the agency to authorize the release of cargo by U.S. Customs and Border Protection for incorporation into the operational functionality of the Automated Commercial Environment computer system authorized under section 13031(f)(4) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)); and

“(iv) not later than December 31, 2016, utilizes the ITDS as the primary means of receiving from users the standard set of data and other relevant docu-

mentation, exclusive of applications for permits, licenses, or certifications required for the release of imported cargo and clearance of cargo for export.

“(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed to require any action to be taken that would compromise an ongoing law enforcement investigation or national security.”; and

(3) in paragraph (8), as redesignated, by striking “section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note)” and inserting “section 109 of the Trade Facilitation and Trade Enforcement Act of 2015”.

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

(a) **CONSULTATIONS.**—The Secretary of Homeland Security, with respect to any proposed mutual recognition arrangement or similar agreement between the United States and a foreign government providing for mutual recognition of supply chain security programs and customs revenue functions, shall consult—

(1) not later than 30 days before initiating negotiations to enter into any such arrangement or similar agreement, with the appropriate congressional committees; and

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

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

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

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

(b) **MEMBERSHIP.**—

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

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

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

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

(2) **APPOINTMENT.**—

(A) **IN GENERAL.**—The Secretary of the Treasury and the Secretary of Homeland Security shall jointly appoint 20 in-

dividuals from the private sector to the Advisory Committee.

(B) REQUIREMENTS.—In making appointments under subparagraph (A), the Secretary of the Treasury and the Secretary of Homeland Security shall appoint members—

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

(ii) without regard to political affiliation.

(C) TERMS.—Each individual appointed to the Advisory Committee under this paragraph shall be appointed for a term of not more than 3 years, and may be reappointed to subsequent terms, but may not serve more than 2 terms sequentially.

(3) TRANSFER OF MEMBERSHIP.—The Secretary of the Treasury and the Secretary of Homeland Security may transfer members serving on the Advisory Committee on Commercial Operations of the United States Customs Service established under section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) on the day before the date of the enactment of this Act to the Advisory Committee established under subsection (a).

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

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

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

(3) collaborate in developing the agenda for Advisory Committee meetings; and

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

(d) MEETINGS.—

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

(2) OPEN MEETINGS.—Notwithstanding section 10(a) of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee meetings shall be open to the public unless the Secretary of the Treasury or the Secretary of Homeland Security determines that the meeting will include matters the disclosure of which would compromise the development of policies, priorities, or negotiating objectives or positions that could impact the commercial operations of U.S. Customs and Border

Protection or the operations or investigations of U.S. Immigration and Customs Enforcement.

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

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

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

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

(g) CONFORMING AMENDMENT.—

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

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

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

(a) IN GENERAL.—The Commissioner shall, in consultation with the appropriate congressional committees and the Commercial Customs Operations Advisory Committee established by section 109, develop and implement Centers of Excellence and Expertise throughout U.S. Customs and Border Protection that—

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

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

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

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

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

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

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

(8) develop applicable performance measurements to meet internal efficiency and effectiveness goals; and

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

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

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

(2) the effectiveness of each such Center of Excellence and Expertise in improving enforcement efforts, including enforcement of priority trade issues described in section 118, and facilitating legitimate trade;

(3) the quantitative and qualitative benefits of each such Center of Excellence and Expertise to the trade community, including through fostering partnerships through the expansion of trade programs such as the Importer Self Assessment program and other trusted partner programs;

(4) all applicable performance measurements with respect to each such Center of Excellence and Expertise, including performance measures with respect to meeting internal efficiency and effectiveness goals;

(5) the performance of each such Center of Excellence and Expertise in increasing the accuracy and completeness of data with respect to international trade and facilitating a more efficient flow of information between Federal agencies; and

(6) any planned changes in the number, scope, functions or any other aspect of the Centers of Excellence and Expertise developed and implemented under subsection (a).

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

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

(1) establish targeted risk assessment methodologies and standards—

(A) for evaluating the risk that cargo destined for the United States may violate the customs and trade laws of the United States, particularly those laws applicable to merchandise subject to the priority trade issues described in section 118; and

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

(2) to the extent practicable and otherwise authorized by law, use, to administer the methodologies and standards established under paragraph (1)—

(A) publicly available information;

(B) information available from the Automated Commercial System, the Automated Commercial Environment computer system, the Automated Targeting System, the Automated Export System, the International Trade Data Sys-

tem, the TECS (formerly known as the “Treasury Enforcement Communications System”), the case management system of U.S. Immigration and Customs Enforcement, and any successor systems; and

(C) information made available to the National Targeting Center, including information provided by private sector entities; and

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

(b) TRADE ALERTS.—

(1) ISSUANCE.—In carrying out its duties under section 411(g)(4) of the Homeland Security Act of 2002, as added by section 802(a) of this Act, and based upon the application of the targeted risk assessment methodologies and standards established under subsection (a), the Executive Director of the National Targeting Center may issue Trade Alerts to directors of United States ports of entry directing further inspection, or physical examination or testing, of specific merchandise to ensure compliance with all applicable customs and trade laws and regulations administered by U.S. Customs and Border Protection.

(2) DETERMINATIONS NOT TO IMPLEMENT TRADE ALERTS.—The director of a United States port of entry may determine not to conduct further inspections, or physical examination or testing, pursuant to a Trade Alert issued under paragraph (1) if—

(A) the director finds that such a determination is justified by port security interests; and

(B) not later than 48 hours after making the determination, notifies the Assistant Commissioner of the Office of Field Operations of U.S. Customs and Border Protection of the determination and the reasons for the determination.

(3) SUMMARY OF DETERMINATIONS NOT TO IMPLEMENT.—The Assistant Commissioner of the Office of Field Operations of U.S. Customs and Border Protection shall—

(A) compile an annual public summary of all determinations by directors of United States ports of entry under paragraph (2) and the reasons for those determinations;

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

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

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

(A) assessing duties;

(B) identifying restricted or prohibited items; and

(C) ensuring compliance with all applicable customs and trade laws and regulations administered by U.S. Customs and Border Protection.

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

“(F) The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and shall not be used for any commercial enforcement purposes, including for determining merchandise entry. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”

**SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTECTION AND ENFORCEMENT MEASURES.**

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

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

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

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

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

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

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

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

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

(b) **PERIOD COVERED BY REPORT.**—Each report required by subsection (a) shall cover the period of 2 fiscal years ending on September 30 of the calendar year preceding the submission of the report.

**SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES WITH RESPECT TO MERCHANDISE TRANSPORTED IN BOND.**

(a) **IN GENERAL.**—Not later than December 31 of 2016, 2017, and 2018, the Secretary of Homeland Security and the Secretary of the Treasury shall jointly submit to the Committee on Finance of the

Senate and the Committee on Ways and Means of the House of Representatives a report on efforts undertaken by U.S. Customs and Border Protection to ensure the secure transportation of merchandise in bond through the United States and the collection of revenue owed upon the entry of such merchandise into the United States for consumption.

(b) ELEMENTS.—Each report required by subsection (a) shall include, for the fiscal year preceding the submission of the report, information on—

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

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

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

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

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

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

(7) the number of entries that remain unreconciled.

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

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

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

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

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

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

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

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

(3) maintains a centralized database of importer of record numbers, including a history of importer of record numbers as-

sociated with each importer, and the information described in subparagraphs (A), (B), and (C) of paragraph (1);

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

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

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

(d) **NUMBER DEFINED.**—In this subsection, the term “number”, with respect to an importer of record, means a filing identification number described in section 24.5 of title 19, Code of Federal Regulations (or any corresponding similar regulation) that fully supports the requirements of subsection (b) with respect to the collection and maintenance of information.

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

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

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

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

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

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

(B) to increase screening of imported products of new importers;

(3) develops procedures to ensure increased oversight of imported products of new importers relating to the enforcement of the priority trade issues described in section 118;

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

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

**SEC. 116. CUSTOMS BROKER IDENTIFICATION OF IMPORTERS.**

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

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

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

“(2) MINIMUM REQUIREMENTS.—The regulations shall, at a minimum, require customs brokers to implement, and importers (after being given adequate notice) to comply with, reasonable procedures for—

“(A) collecting the identity of importers, including non-resident importers, seeking to import merchandise into the United States to the extent reasonable and practicable; and

“(B) maintaining records of the information used to substantiate a person’s identity, including name, address, and other identifying information.

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

“(4) DEFINITIONS.—In this subsection—

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

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

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

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

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

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

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

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

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

**“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESIDENT IMPORTERS.**

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

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

“(1) The resident agent shall be authorized to accept service of process against the non-resident importer in connection with the importation of merchandise.

“(2) The Commissioner of U.S. Customs and Border Protection shall require the non-resident importer to establish a power of attorney with the resident agent in connection with the importation of merchandise.

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

“(d) **PENALTIES.**—

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

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

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

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

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

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

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

- (1) Agriculture programs.
- (2) Antidumping and countervailing duties.
- (3) Import safety.
- (4) Intellectual property rights.
- (5) Revenue.
- (6) Textiles and wearing apparel.

(7) Trade agreements and preference programs.

(b) **MODIFICATION.**—The Commissioner is authorized to establish new priority trade issues and eliminate, consolidate, or otherwise modify the priority trade issues described in subsection (a) if the Commissioner—

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

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

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

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

(1) the Committee on Finance and the Committee on Homeland Security and Government Affairs of the Senate; and

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

## **TITLE II—IMPORT HEALTH AND SAFETY**

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

(a) **ESTABLISHMENT.**—There is established an interagency Import Safety Working Group.

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

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

(2) The Secretary of Health and Human Services, who shall serve as the Vice Chair.

(3) The Secretary of the Treasury.

(4) The Secretary of Commerce.

(5) The Secretary of Agriculture.

(6) The United States Trade Representative.

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

(8) The Commissioner of Food and Drugs.

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

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

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

(12) The head of any other Federal agency designated by the President to participate in the interagency Import Safety Working Group, as appropriate.

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

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

(2) periodically evaluating the adequacy of the plans, practices, and resources of the Federal Government dedicated to ensuring the safety of merchandise imported in the United States and the expeditious entry of such merchandise, including—

(A) minimizing the duplication of efforts among agencies the heads of which are members of the interagency Import

Safety Working Group and ensuring the compatibility of the policies and regulations of those agencies; and

(B) recommending additional administrative actions, as appropriate, designed to ensure the safety of merchandise imported into the United States and the expeditious entry of such merchandise and considering the impact of those actions on private sector entities;

(3) reviewing the engagement and cooperation of foreign governments and foreign manufacturers in facilitating the inspection and certification, as appropriate, of such merchandise to be imported into the United States and the facilities producing such merchandise to ensure the safety of the merchandise and the expeditious entry of the merchandise into the United States;

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

(A) the inspection of manufacturing facilities in foreign countries;

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

(C) the protection of the international supply chain (as defined in section 2 of the Security and Accountability For Every Port Act of 2006 (6 U.S.C. 901));

(5) identifying best practices to assist Federal, State, and local governments and agencies, and port authorities, to improve communication and coordination among such agencies and authorities with respect to ensuring the safety of merchandise imported into the United States and the expeditious entry of such merchandise; and

(6) otherwise identifying appropriate steps to increase the accountability of United States importers and the engagement of foreign government agencies with respect to ensuring the safety of merchandise imported into the United States and the expeditious entry of such merchandise.

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

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

(1) in taking action in response to, and coordinating Federal responses to, an incident in which cargo destined for or merchandise entering the United States has been identified as posing a threat to the health or safety of consumers in the United States; and

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

(b) **CONTENTS.**—The joint import safety rapid response plan shall address—

(1) the statutory and regulatory authorities and responsibilities of U.S. Customs and Border Protection and other Federal agencies in responding to an incident described in subsection (a)(1);

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

(3) the measures to be taken by U.S. Customs and Border Protection and other Federal agencies in recovering from or mitigating the effects of actions taken in response to such an incident after the incident to ensure the resumption of the entry of merchandise into the United States; and

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

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

(d) IMPORT HEALTH AND SAFETY EXERCISES.—

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

(2) REQUIREMENTS FOR EXERCISES.—In conducting exercises under paragraph (1), the Secretary and the Commissioner shall—

(A) make allowance for the resources, needs, and constraints of United States ports of entry of different sizes in representative geographic locations across the United States;

(B) base evaluations on current risk assessments of merchandise entering the United States at representative United States ports of entry located across the United States;

(C) ensure that such exercises are conducted in a manner consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidelines, the Maritime Transportation System Security Plan, and other such national initiatives of the Department of Homeland Security, as appropriate; and

(D) develop metrics with respect to the resumption of the entry of merchandise into the United States after an incident described in subsection (a)(1).

(3) REQUIREMENTS FOR TESTING AND EVALUATION.—The Secretary and the Commissioner shall ensure that the testing and evaluation carried out in conducting exercises under paragraph (1)—

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

- (B) result in the identification of specific recommendations or best practices for responding to an incident described in subsection (a)(1).
- (4) DISSEMINATION OF RECOMMENDATIONS AND BEST PRACTICES.—The Secretary and the Commissioner shall—
- (A) share the recommendations or best practices identified under paragraph (3)(B) among the members of the interagency Import Safety Working Group established under section 201 and with, as appropriate—
- (i) State, local, and tribal governments;
  - (ii) foreign governments; and
  - (iii) private sector entities; and
- (B) use such recommendations and best practices to update the joint import safety rapid response plan.

**SEC. 203. TRAINING.**

The Commissioner shall ensure that personnel of U.S. Customs and Border Protection assigned to United States ports of entry are trained to effectively administer the provisions of this title and to otherwise assist in ensuring the safety of merchandise imported into the United States and the expeditious entry of such merchandise.

## **TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

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

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

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

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

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

“(a) IN GENERAL.—Subject to subsections (c) and (d), if the Commissioner of U.S. Customs and Border Protection suspects that merchandise is being imported into the United States in violation of section 526 of this Act or section 602, 1201(a)(2), or 1201(b)(1) of title 17, United States Code, and determines that the examination or testing of the merchandise by a person described in subsection (b) would assist the Commissioner in determining if the merchandise is being imported in violation of that section, the Commissioner, to permit the person to conduct the examination and testing—

“(1) shall provide to the person information that appears on the merchandise and its packaging and labels, including unredacted images of the merchandise and its packaging and labels; and

“(2) may, subject to any applicable bonding requirements, provide to the person unredacted samples of the merchandise.

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

“(1) in the case of merchandise suspected of being imported in violation of section 526, the owner of the trademark suspected of being copied or simulated by the merchandise;

“(2) in the case of merchandise suspected of being imported in violation of section 602 of title 17, United States Code, the owner of the copyright suspected of being infringed by the merchandise;

“(3) in the case of merchandise suspected of being primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under that title, and being imported in violation of section 1201(a)(2) of that title, the owner of a copyright in the work; and

“(4) in the case of merchandise suspected of being primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of an owner of a copyright in a work or a portion of a work, and being imported in violation of section 1201(b)(1) of that title, the owner of the copyright.

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

“(d) EXCEPTION.—The Commissioner may not provide under subsection (a) information, photographs, or samples to a person described in subsection (b) if providing such information, photographs, or samples would compromise an ongoing law enforcement investigation or national security.”.

(b) TERMINATION OF PREVIOUS AUTHORITY.—Notwithstanding paragraph (2) of section 818(g) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1496; 10 U.S.C. 2302 note), paragraph (1) of that section shall have no force or effect on or after the date of the enactment of this Act.

### SEC. 303. SEIZURE OF CIRCUMVENTION DEVICES.

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

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

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

(3) by adding at the end the following:

“(G) U.S. Customs and Border Protection determines it is a technology, product, service, device, component, or part thereof the importation of which is prohibited under subsection (a)(2) or (b)(1) of section 1201 of title 17, United States Code.”.

(b) NOTIFICATION OF PERSONS INJURED.—

(1) IN GENERAL.—Not later than the date that is 30 business days after seizing merchandise pursuant to subparagraph (G) of section 596(c)(2) of the Tariff Act of 1930, as added by subsection (a), the Commissioner shall provide to any person identified under paragraph (2) information regarding the merchandise seized that is equivalent to information provided to copyright owners under regulations of U.S. Customs and Border

Protection for merchandise seized for violation of the copyright laws.

(2) **PERSONS TO BE PROVIDED INFORMATION.**—Any person injured by the violation of (a)(2) or (b)(1) of section 1201 of title 17, United States Code, that resulted in the seizure of the merchandise shall be provided information under paragraph (1), if that person is included on a list maintained by the Commissioner that is revised annually through publication in the Federal Register.

(3) **REGULATIONS.**—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations establishing procedures that implement this subsection.

**SEC. 304. ENFORCEMENT BY U.S. CUSTOMS AND BORDER PROTECTION OF WORKS FOR WHICH COPYRIGHT REGISTRATION IS PENDING.**

Not later than the date that is 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall authorize a process pursuant to which the Commissioner shall enforce a copyright for which the owner has submitted an application for registration under title 17, United States Code, with the United States Copyright Office, to the same extent and in the same manner as if the copyright were registered with the Copyright Office, including by sharing information, images, and samples of merchandise suspected of infringing the copyright under section 628A of the Tariff Act of 1930, as added by section 302.

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

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

(1) establish within U.S. Immigration and Customs Enforcement a National Intellectual Property Rights Coordination Center; and

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

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

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

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

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

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

(3) coordinate, with U.S. Customs and Border Protection, activities conducted by the United States to prevent the importation or exportation of merchandise that infringes intellectual property rights;

(4) support the international interdiction of merchandise destined for the United States that infringes intellectual property rights;

(5) collect and integrate information regarding infringement of intellectual property rights from domestic and international law enforcement agencies and other non-Federal sources;

(6) develop a means to receive and organize information regarding infringement of intellectual property rights from such agencies and other sources;

(7) disseminate information regarding infringement of intellectual property rights to other Federal agencies, as appropriate;

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

(9) coordinate with the offices of United States attorneys in order to develop expertise in, and assist with the investigation and prosecution of, crimes relating to the infringement of intellectual property rights; and

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

(c) **COORDINATION WITH OTHER AGENCIES.**—In carrying out the duties described in subsection (b), the Assistant Director of the National Intellectual Property Rights Coordination Center shall coordinate with—

(1) U.S. Customs and Border Protection;

(2) the Food and Drug Administration;

(3) the Department of Justice;

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

(5) the United States Postal Inspection Service;

(6) the Office of the United States Trade Representative;

(7) any Federal, State, local, or international law enforcement agencies that the Director of U.S. Immigration and Customs Enforcement considers appropriate; and

(8) any other entities that the Director considers appropriate.

(d) **PRIVATE SECTOR OUTREACH.**—

(1) **IN GENERAL.**—The Assistant Director of the National Intellectual Property Rights Coordination Center shall work with U.S. Customs and Border Protection and other Federal agencies to conduct outreach to private sector entities in order to determine trends in and methods of infringing intellectual property rights.

(2) **INFORMATION SHARING.**—The Assistant Director shall share information and best practices with respect to the enforcement of intellectual property rights with private sector entities, as appropriate, in order to coordinate public and private sector efforts to combat the infringement of intellectual property rights.

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

The Commissioner and the Director of U.S. Immigration and Customs Enforcement shall include in the joint strategic plan required by section 105—

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

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

(3) a recommendation for the optimal allocation of personnel, resources, and technology to ensure that U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement are adequately enforcing intellectual property rights.

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

(a) **PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.**—The Commissioner and the Director of U.S. Immigration and Customs Enforcement shall ensure that sufficient personnel are assigned throughout U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, respectively, who have responsibility for preventing the importation into the United States of merchandise that infringes intellectual property rights.

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

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

(2) ensure that sufficient personnel are assigned to United States ports of entry to carry out the directives of the Center.

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

(a) **TRAINING.**—The Commissioner shall ensure that officers of U.S. Customs and Border Protection are trained to effectively detect and identify merchandise destined for the United States that infringes intellectual property rights, including through the use of technologies identified under subsection (c).

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

(c) **IDENTIFICATION OF NEW TECHNOLOGIES.**—In consultation with private sector entities, the Commissioner shall identify—

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

(2) cost-effective programs for training officers of U.S. Customs and Border Protection to use such technologies.

(d) **DONATIONS OF TECHNOLOGY.**—Not later than the date that is 180 days after the date of the enactment of this Act, the Commissioner shall prescribe regulations to enable U.S. Customs and Border Protection to receive donations of hardware, software, equipment, and similar technologies, and to accept training and other support services, from private sector entities, for the purpose of enforcing intellectual property rights.

**SEC. 309. INTERNATIONAL COOPERATION AND INFORMATION SHARING.**

(a) COOPERATION.—The Secretary of Homeland Security shall coordinate with the competent law enforcement and customs authorities of foreign countries, including by sharing information relevant to enforcement actions, to enhance the efforts of the United States and such authorities to enforce intellectual property rights.

(b) TECHNICAL ASSISTANCE.—The Secretary of Homeland Security shall provide technical assistance to competent law enforcement and customs authorities of foreign countries to enhance the ability of such authorities to enforce intellectual property rights.

(c) INTERAGENCY COLLABORATION.—The Commissioner and the Director of U.S. Immigration and Customs Enforcement shall lead interagency efforts to collaborate with law enforcement and customs authorities of foreign countries to enforce intellectual property rights.

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

Not later than June 30, 2016, and annually thereafter, the Commissioner and the Director of U.S. Immigration and Customs Enforcement shall jointly submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a report that contains the following:

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

(A) The number of referrals, during the preceding year, from U.S. Customs and Border Protection to U.S. Immigration and Customs Enforcement relating to infringement of intellectual property rights .

(B) The number of investigations relating to the infringement of intellectual property rights referred by U.S. Immigration and Customs Enforcement to a United States attorney for prosecution and the United States attorneys to which those investigations were referred.

(C) The number of such investigations accepted by each such United States attorney and the status or outcome of each such investigation.

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

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

(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;

(B) collaboration with private sector entities—

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

(ii) to identify opportunities for enhanced training of officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; and

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

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

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

(5) A summary of training relating to the enforcement of intellectual property rights conducted under section 308 and expenditures for such training.

**SEC. 311. INFORMATION FOR TRAVELERS REGARDING VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security shall develop and carry out an educational campaign to inform travelers entering or leaving the United States about the legal, economic, and public health and safety implications of acquiring merchandise that infringes intellectual property rights outside the United States and importing such merchandise into the United States in violation of United States law.

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

## TITLE IV—PREVENTION OF EVASION OF ANTIDUMPING AND COUNTER- VAILING DUTY ORDERS

### SEC. 401. SHORT TITLE.

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

### SEC. 402. DEFINITIONS.

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

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

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

(2) **COVERED MERCHANDISE.**—The term “covered merchandise” means merchandise that is subject to—

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

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

(3) **ELIGIBLE SMALL BUSINESS.**—

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

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

(4) **ENTER; ENTRY.**—The terms “enter” and “entry” refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

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

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

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

### SEC. 403. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), this title and the

amendments made by this title shall apply with respect to goods from Canada and Mexico.

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

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

#### **(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—The Secretary of Homeland Security shall establish and maintain within the Office of International Trade of U.S. Customs and Border Protection, established under section 2(d) of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d)), a Trade Remedy Law Enforcement Division.

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

(A) headquarters personnel led by a Director, who shall report to the Assistant Commissioner of the Office of International Trade; and

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

(3) **DUTIES.**—The Trade Remedy Law Enforcement Division shall be dedicated—

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

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

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

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

(E) to the development of policies for the application of single entry and continuous bonds for entries of covered merchandise to sufficiently protect the collection of anti-dumping and countervailing duties commensurate with the level of risk of noncollection.

(b) **DUTIES OF DIRECTOR.**—The duties of the Director of the Trade Remedy Law Enforcement Division shall include—

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

(2) facilitating, promoting, and coordinating cooperation and the exchange of information between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and other relevant agencies regarding evasion;

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

(4) serving as the primary liaison between U.S. Customs and Border Protection and the public regarding United States Government activities concerning evasion, including—

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

(B) upon request by the party or parties that submitted an allegation of evasion, provide information to such party or parties on the status of U.S. Customs and Border Protection's consideration of the allegation and decision to pursue or not pursue any administrative inquiries or other actions, such as changes in policies, procedures, or resource allocation as a result of the allegation;

(C) as needed, request from the party or parties that submitted an allegation of evasion any additional information that may be relevant for U.S. Customs and Border Protection determining whether to initiate an administrative inquiry or take any other action regarding the allegation;

(D) notify on a timely basis the party or parties that submitted such an allegation of the results of any administrative, civil or criminal actions taken by U.S. Customs and Border Protection or other Federal agency regarding evasion as a direct or indirect result of the allegation;

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

(F) in cooperation with the public, the Commercial Customs Operations Advisory Committee, the Trade Support Network, and any other relevant parties and organizations, develop guidelines on the types and nature of information that may be provided in allegations of evasion; and

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

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

(1) establish targeted risk assessment methodologies and standards—

(A) for evaluating the risk that cargo destined for the United States may constitute evading covered merchandise; and

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

(2) to the extent practicable and otherwise authorized by law, use information available from the Automated Commer-

cial System, the Automated Commercial Environment computer system, the Automated Targeting System, the Automated Export System, the International Trade Data System, and the TECS, and any similar and successor systems, to administer the methodologies and standards established under paragraph (1).

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

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

(a) **AUTHORITY TO COLLECT INFORMATION.**—To determine whether covered merchandise is being entered into the customs territory of the United States through evasion, the Secretary, acting through the Commissioner—

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

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

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

(B) a person who is alleged to have entered the covered merchandise into the customs territory of the United States through evasion; or

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

(b) **ADVERSE INFERENCE.**—

(1) **IN GENERAL.**—If the Secretary finds that a person who filed an allegation, a person alleged to have entered covered merchandise into the customs territory of the United States through evasion, or a foreign producer or exporter of covered merchandise that is alleged to have entered into the customs territory of the United States through evasion, has failed to cooperate by not acting to the best of the person's ability to comply with a request for information, the Secretary may, in making a determination whether an entry or entries of covered merchandise may constitute merchandise that is entered into the customs territory of the United States through evasion, use an inference that is adverse to the interests of that person in selecting from among the facts otherwise available to determine whether evasion has occurred.

(2) **ADVERSE INFERENCE DESCRIBED.**—An adverse inference used under paragraph (1) may include reliance on information derived from—

- (A) the allegation of evasion of the trade remedy laws, if any, submitted to U.S. Customs and Border Protection;
- (B) a determination by the Commissioner in another investigation, proceeding, or other action regarding evasion of the unfair trade laws; or
- (C) any other available information.

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

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

(b) **ADDITIONAL INFORMATION.**—Notwithstanding any other provision of law, the Secretary is authorized to provide to the Secretary of Commerce or the United States International Trade Commission any information that is necessary to enable the Secretary of Commerce or the United States International Trade Commission to assist the Secretary to identify, through risk assessment targeting or otherwise, covered merchandise that is entered into the customs territory of the United States through evasion.

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

(a) **BILATERAL AGREEMENTS.**—

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

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

(A) On the request of the importing country, the exporting country shall provide, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to determine whether an entry or entries exported from the exporting country are subject to the importing country’s trade remedy laws.

(B) On the written request of the importing country, the exporting country shall conduct a verification for purposes of enabling the importing country to make a determination described in subparagraph (A).

(C) The exporting country may allow the importing country to participate in a verification described in subparagraph (B), including through a site visit.

(D) If the exporting country does not allow participation of the importing country in a verification described in subparagraph (B), the importing country may take this fact into consideration in its trade enforcement and compliance assessment activities regarding the compliance of the exporting country’s exports with the importing country’s trade remedy laws.

(b) **CONSIDERATION.**—The Commissioner is authorized to take into consideration whether a country is a signatory to a bilateral agreement described in subsection (a) and the extent to which the

country is cooperating under the bilateral agreement for purposes of trade enforcement and compliance assessment activities of U.S. Customs and Border Protection that concern evasion by such country's exports.

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

(1) the status of any ongoing negotiations of bilateral agreements described in subsection (a), including the identities of the countries involved in such negotiations;

(2) the terms of any completed bilateral agreements described in subsection (a); and

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

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

The principal negotiating objectives of the United States shall include obtaining the objectives of the bilateral agreements described under section 414(a) for any trade agreements under negotiation as of the date of the enactment of this Act or future trade agreement negotiations.

## **Subtitle B—Investigation of Evasion of Trade Remedy Laws**

**SEC. 421. PROCEDURES FOR INVESTIGATION OF EVASION OF ANTI-DUMPING AND COUNTERVAILING DUTY ORDERS.**

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

**“SEC. 781A. PROCEDURES FOR PREVENTION OF EVASION OF ANTI-DUMPING AND COUNTERVAILING DUTY ORDERS.**

“(a) DEFINITIONS.—In this section:

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

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

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

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

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

“(4) EVASION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘evasion’ refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties

being reduced or not being applied with respect to the merchandise.

“(B) EXCEPTION FOR CLERICAL ERROR.—

“(i) IN GENERAL.—Except as provided in clause (ii), the term ‘evasion’ does not include entering covered merchandise into the customs territory of the United States by means of—

“(I) a document or electronically transmitted data or information, written or oral statement, or act that is false as a result of a clerical error; or

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

“(ii) PATTERNS OF NEGLIGENT CONDUCT.—If the administering authority determines that a person has entered covered merchandise into the customs territory of the United States by means of a clerical error referred to in subclause (I) or (II) of clause (i) and that the clerical error is part of a pattern of negligent conduct on the part of that person, the administering authority may determine, notwithstanding clause (i), that the person has entered such covered merchandise into the customs territory of the United States by means of evasion.

“(iii) ELECTRONIC REPETITION OF ERRORS.—For purposes of clause (ii), the mere unintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct.

“(iv) RULE OF CONSTRUCTION.—A determination by the administering authority that a person has entered covered merchandise into the customs territory of the United States by means of a clerical error referred to in subclause (I) or (II) of clause (i) rather than by means of evasion shall not be construed to excuse that person from the payment of any duties applicable to the merchandise.

“(b) INVESTIGATION BY ADMINISTERING AUTHORITY.—

“(1) PROCEDURES FOR INITIATING INVESTIGATIONS.—

“(A) INITIATION BY ADMINISTERING AUTHORITY.—An investigation under this subsection shall be initiated with respect to merchandise imported into the United States whenever the administering authority determines, from information available to the administering authority, that an investigation is warranted with respect to whether the merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion.

“(B) INITIATION BY PETITION OR REFERRAL.—

“(i) IN GENERAL.—The administering authority shall determine whether to initiate an investigation under this subparagraph not later than 30 days after the date on which the administering authority receives a petition described in clause (ii) or a referral described in clause (iii).

“(ii) PETITION DESCRIBED.—A petition described in this clause is a petition that—

“(I) is filed with the administering authority by an interested party specified in subparagraph (A), (C), (D), (E), (F), or (G) of section 771(9);

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

“(III) is accompanied by information reasonably available to the petitioner supporting those allegations.

“(iii) REFERRAL DESCRIBED.—A referral described in this clause is a referral made by the Commissioner pursuant to subsection (c)(1).

“(2) TIME LIMITS FOR DETERMINATIONS.—

“(A) PRELIMINARY DETERMINATION.—

“(i) IN GENERAL.—Not later than 90 days after the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the administering authority shall issue a preliminary determination, based on information available to the administering authority at the time of the determination, with respect to whether there is a reasonable basis to believe or suspect that the merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion.

“(ii) EXPEDITED PROCEDURES.—If the administering authority determines that expedited action is warranted with respect to an investigation initiated under paragraph (1), the administering authority may publish the notice of initiation of the investigation and the notice of the preliminary determination in the Federal Register at the same time.

“(B) FINAL DETERMINATION BY THE ADMINISTERING AUTHORITY.—Not later than 300 days after the date on which the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the administering authority shall issue a final determination with respect to whether the merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion.

“(3) ACCESS TO INFORMATION.—

“(A) ENTRY DOCUMENTS, RECORDS, AND OTHER INFORMATION.—Not later than 10 days after receiving a request from the administering authority with respect to merchandise that is the subject of an investigation under paragraph (1), the Commissioner shall transmit to the administering authority copies of the documentation and information required by section 484(a)(1) with respect to the entry of the merchandise, as well as any other documentation or information requested by the administering authority.

“(B) ACCESS OF INTERESTED PARTIES.—Not later than 10 business days after the date on which the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the administering authority

shall provide to the authorized representative of each interested party that filed a petition under paragraph (1) or otherwise participates in a proceeding, pursuant to a protective order, the copies of the entry documentation and any other information received by the administering authority under subparagraph (A).

“(C) BUSINESS PROPRIETARY INFORMATION FROM PRIOR SEGMENTS.—If an authorized representative of an interested party participating in an investigation under paragraph (1) has access to business proprietary information released pursuant to an administrative protective order in a proceeding under subtitle A, B, or C of title VII of the Tariff Act of 1930 that is relevant to the investigation conducted under paragraph (1), that authorized representative may submit such information to the administering authority for its consideration in the context of the investigation conducted under paragraph (1).

“(4) AUTHORITY TO COLLECT AND VERIFY ADDITIONAL INFORMATION.—In making a determination under paragraph (2) with respect to covered merchandise, the administering authority may collect such additional information as is necessary to make the determination through such methods as the administering authority considers appropriate, including by—

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

“(i) a person that filed an allegation under paragraph (1)(B)(ii) that resulted in the initiation of an investigation under paragraph (1)(A) with respect to such covered merchandise;

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

“(iii) a person that is a foreign producer or exporter of such covered merchandise; or

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

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

“(C) requesting—

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

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

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

“(6) EFFECT OF AFFIRMATIVE PRELIMINARY DETERMINATION.—If the administering authority makes a preliminary determina-

tion under paragraph (2)(A) that merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion, the administering authority shall instruct U.S. Customs and Border Protection—

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

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

“(ii) enters before that date, if the liquidation of the entry is not final on that date; and

“(B) to require the posting of a cash deposit for each entry of the merchandise in an amount determined pursuant to the order, or administrative review conducted under section 751, that applies to the merchandise.

“(7) EFFECT OF AFFIRMATIVE FINAL DETERMINATION.—

“(A) IN GENERAL.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion, the administering authority shall instruct U.S. Customs and Border Protection—

“(i) to assess duties on the merchandise in an amount determined pursuant to the order, or administrative review conducted under section 751, that applies to the merchandise;

“(ii) notwithstanding section 501, to reliquidate, in accordance with such order or administrative review, each entry of the merchandise that was liquidated and is determined to include covered merchandise; and

“(iii) to review and reassess the amount of bond or other security the importer is required to post for such merchandise entered on or after the date of the final determination to ensure the protection of revenue and compliance with the law.

“(B) ADDITIONAL AUTHORITY.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is covered merchandise that has entered into the customs territory of the United States by means of evasion, the administering authority may instruct U.S. Customs and Border Protection to require the importer of the merchandise to post a cash deposit or bond on such merchandise entered on or after the date of the final determination in an amount the administering authority determines in the final determination to be owed with respect to the merchandise.

“(8) EFFECT OF NEGATIVE FINAL DETERMINATION.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is not covered merchandise that has entered into the customs territory of the United States by means of evasion, the administering authority shall terminate the suspension of liquidation and refund any cash deposit imposed pursuant to paragraph (6) with respect to the merchandise.

“(9) NOTIFICATION.—Not later than 5 business days after making a determination under paragraph (2) with respect to

covered merchandise, the administering authority may provide to importers, in such manner as the administering authority determines appropriate, information discovered in the investigation that the administering authority determines will help educate importers with respect to importing merchandise into the customs territory of the United States in accordance with all applicable laws and regulations.

“(10) SPECIAL RULE FOR CASES IN WHICH THE PRODUCER OR EXPORTER IS UNKNOWN.—If the administering authority is unable to determine the actual producer or exporter of the merchandise with respect to which the administering authority initiated an investigation under paragraph (1), the administering authority shall, in requiring the posting of a cash deposit under paragraph (6) or assessing duties pursuant to paragraph (7)(A), impose the cash deposit or duties (as the case may be) in the highest amount applicable to any producer or exporter of the merchandise pursuant to any order, or any administrative review conducted under section 751.

“(11) PUBLICATION OF DETERMINATIONS.—The administering authority shall publish in the Federal Register each notice of initiation of an investigation made under paragraph (1)(A), each preliminary determination made under paragraph (2)(A), and each final determination made under paragraph (2)(B).

“(12) REFERRALS TO OTHER AGENCIES.—

“(A) AFTER PRELIMINARY DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the administering authority makes an affirmative preliminary determination under paragraph (2)(A), the administering authority shall—

“(i) transmit the administrative record to the Commissioner for such additional action as the Commissioner determines appropriate, including proceedings under section 592; and

“(ii) at the request of the head of another agency, transmit the administrative record to the head of that agency.

“(B) AFTER FINAL DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the administering authority makes an affirmative final determination under paragraph (2)(B), the administering authority shall—

“(i) transmit the complete administrative record to the Commissioner; and

“(ii) at the request of the head of another agency, transmit the complete administrative record to the head of that agency.

“(c) REFERRAL BY U.S. CUSTOMS AND BORDER PROTECTION.—In the event the Commissioner receives information that a person has entered covered merchandise into the customs territory of the United States through evasion, but is not able to determine whether the merchandise is in fact covered merchandise, the Commissioner shall—

“(1) refer the matter to the administering authority for additional proceedings under subsection (b); and

“(2) transmit to the administering authority—

“(A) copies of the entry documents and information required by section 484(a)(1) relating to the merchandise; and

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

“(d) COOPERATION BETWEEN U.S. CUSTOMS AND BORDER PROTECTION AND THE DEPARTMENT OF COMMERCE.—

“(1) NOTIFICATION OF INVESTIGATIONS.—Upon receiving a petition and upon initiating an investigation under subsection (b), the administering authority shall notify the Commissioner.

“(2) PROCEDURES FOR COOPERATION.—Not later than 180 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Commissioner and the administering authority shall establish procedures to ensure maximum cooperation and communication between U.S. Customs and Border Protection and the administering authority in order to quickly, efficiently, and accurately investigate allegations of evasion of antidumping and countervailing duty orders.

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

“(1) IN GENERAL.—Not later than February 28 of each year beginning in 2016, the Under Secretary for International Trade of the Department of Commerce shall submit to the Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives a report on the efforts being taken under subsection (b) to prevent evasion of antidumping and countervailing duty orders.

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

“(A)(i) the number of investigations initiated pursuant to subsection (b); and

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

“(I) the results of such investigations; and

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

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

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

“Sec. 781A. Procedures for prevention of evasion of antidumping and countervailing duty orders.”.

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

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

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

“(ix) A determination by the administering authority under section 781A.”.

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

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

(2) the Commissioner shall prescribe such regulations as may be necessary to carry out subsection (c) of such section 781A.

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

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

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

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

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives a report assessing the effectiveness of—

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

(2) the actions taken and procedures developed by the Secretary of Commerce and the Commissioner pursuant to such provisions and amendments to prevent evasion of antidumping and countervailing duty orders under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

## **Subtitle C—Other Matters**

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

The Commissioner shall, to the maximum extent possible, ensure that U.S. Customs and Border Protection—

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

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

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

**SEC. 432. ANNUAL REPORT ON PREVENTION OF EVASION OF ANTI-DUMPING AND COUNTERVAILING DUTY ORDERS.**

(a) **IN GENERAL.**—Not later than February 28 of each year, beginning in 2016, the Commissioner, in consultation with the Secretary of Commerce and the Director of U.S. Immigration and Customs Enforcement, shall submit to the appropriate congressional com-

mittees a report on the efforts being taken to prevent and investigate evasion.

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

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

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

(B) the number of allegations of evasion received and the number of allegations of evasion resulting in any administrative, civil, or criminal actions by U.S. Customs and Border Protection or any other agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) by striking clause (iii);
- (2) by redesignating clause (iv) as clause (iii); and
- (3) inserting after clause (iii), as redesignated by paragraph (2) of this section, the following:

“(iv) DETERMINATIONS BASED ON BONAFIDE SALES.—  
Any weighted average dumping margin or individual countervailing duty rate determined for an exporter or producer in a review conducted under clause (i) shall be based solely on the bona fide United States sales of an exporter or producer, as the case may be, made during the period covered by the review. In determining whether the United States sales of an exporter or producer made during the period covered by the review were bona fide, the administering authority shall consider, depending on the circumstances surrounding such sales—

- “(I) the prices of such sales;
- “(II) whether such sales were made in commercial quantities;
- “(III) the timing of such sales;
- “(IV) the expenses arising from such sales;
- “(V) whether the subject merchandise involved in such sales was resold in the United States at a profit;
- “(VI) whether such sales were made on an arms-length basis; and
- “(VII) any other factor the administering authority determines to be relevant as to whether such sales are, or are not, likely to be typical of those the exporter or producer will make after completion of the review.”.

**TITLE V—IMPROVEMENTS TO ANTI-DUMPING AND COUNTERVAILING DUTY LAWS**

**SEC. 501. SHORT TITLE.**

This title may be cited as the “American Trade Enforcement Effectiveness Act”.

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

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

- (1) in subsection (b)—
  - (A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving

- such subparagraphs, as so redesignated, 2 ems to the right;
- (B) by striking “ADVERSE INFERENCES.—If” and inserting the following: “ADVERSE INFERENCES.—
- “(1) IN GENERAL.—If”;
- (C) by striking “under this title, may use” and inserting the following: “under this title—
- “(A) may use”; and
- (D) by striking “facts otherwise available. Such adverse inference may include” and inserting the following: “facts otherwise available; and
- “(B) is not required to determine, or make any adjustments to, a countervailable subsidy rate or weighted average dumping margin based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.
- “(2) POTENTIAL SOURCES OF INFORMATION FOR ADVERSE INFERENCES.—An adverse inference under paragraph (1)(A) may include”;
- (2) in subsection (c)—
- (A) by striking “CORROBORATION OF SECONDARY INFORMATION.—When the” and inserting the following: “CORROBORATION OF SECONDARY INFORMATION.—
- “(1) IN GENERAL.—Except as provided in paragraph (2), when the”; and
- (B) by adding at the end the following:
- “(2) EXCEPTION.—The administrative authority and the Commission shall not be required to corroborate any dumping margin or countervailing duty applied in a separate segment of the same proceeding.”; and
- (3) by adding at the end the following:
- “(d) SUBSIDY RATES AND DUMPING MARGINS IN ADVERSE INFERENCE DETERMINATIONS.—
- “(1) IN GENERAL.—If the administering authority uses an inference that is adverse to the interests of a party under subsection (b)(1)(A) in selecting among the facts otherwise available, the administering authority may—
- “(A) in the case of a countervailing duty proceeding—
- “(i) use a countervailable subsidy rate applied for the same or similar program in a countervailing duty proceeding involving the same country, or
- “(ii) if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, and
- “(B) in the case of an antidumping duty proceeding, use any dumping margin from any segment of the proceeding under the applicable antidumping order.
- “(2) DISCRETION TO APPLY HIGHEST RATE.—In carrying out paragraph (1), the administering authority may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority

using an adverse inference in selecting among the facts otherwise available.

“(3) NO OBLIGATION TO MAKE CERTAIN ESTIMATES OR ADDRESS CERTAIN CLAIMS.—If the administering authority uses an adverse inference under subsection (b)(1)(A) in selecting among the facts otherwise available, the administering authority is not required, for purposes of subsection (c) or for any other purpose—

“(A) to estimate what the countervailable subsidy rate or dumping margin would have been if the interested party found to have failed to cooperate under subsection (b)(1) had cooperated, or

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

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

(a) EFFECT OF PROFITABILITY OF DOMESTIC INDUSTRIES.—Section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677(7)) is amended by adding at the end the following:

“(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.”.

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

“(I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity,”.

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

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

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

(3) by striking subclause (III).

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

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

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

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

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

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

(2) by striking the flush text at the end and inserting the following:

“For purposes of paragraph (1), if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology. For purposes of paragraph (1), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition that is remitted or refunded upon exportation of the subject merchandise produced from such materials.”.

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

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

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

“(i) REVIEW.—In a review conducted under section 751 involving a specific exporter, there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that are less than the cost of production of the product if the administering authority disregarded some or all of the exporter’s sales pursuant to paragraph (1) in the investigation or, if a review has been completed, in the most recently completed review.

“(ii) REQUESTS FOR INFORMATION.—In an investigation initiated under section 732 or a review conducted under section 751, the administering authority shall request information necessary to calculate the constructed value and cost of production under subsections (e) and (f) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the cost of production of the product.”.

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

“(5) DISCRETION TO DISREGARD CERTAIN PRICE OR COST VALUES.—In valuing the factors of production under paragraph (1) for the subject merchandise, the administering authority may disregard price or cost values without further investigation if the administering authority has determined that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those price or cost values or if those price or cost values were subject to an antidumping order.”.

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

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

(1) in paragraph (1), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving such clauses, as so redesignated, 2 ems to the right;

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

(3) by striking “INVESTIGATIONS AND REVIEWS.—In” and inserting the following: “INVESTIGATIONS AND REVIEWS.—

“(1) IN GENERAL.—In”;

(4) in paragraph (1), as designated by paragraph (3), by amending subparagraph (B), as redesignated by paragraph (2), to read as follows:

“(B) the number of exporters or producers subject to the investigation or review is not so large that any additional individual examination of such exporters or producers would be unduly burdensome to the administering authority and inhibit the timely completion of the investigation or review.”; and

(5) by adding at the end the following:

“(2) DETERMINATION OF UNDULY BURDENSOME.—In determining if an individual examination under paragraph (1)(B) would be unduly burdensome, the administering authority may consider the following:

“(A) The complexity of the issues or information presented in the proceeding, including questionnaires and any responses thereto.

“(B) Any prior experience of the administering authority in the same or similar proceeding.

“(C) The total number of investigations under subtitle A or B and reviews under section 751 being conducted by the administering authority as of the date of the determination.

“(D) Such other factors relating to the timely completion of each such investigation and review as the administering authority considers appropriate.”.

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

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

## **TITLE VI—ADDITIONAL ENFORCEMENT PROVISIONS**

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

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

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

“(a) TRADE ENFORCEMENT PRIORITIES, CONSULTATIONS, AND REPORT.—

“(1) TRADE ENFORCEMENT PRIORITIES CONSULTATIONS.—Not later than May 31 of each calendar year that begins after the

date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the United States Trade Representative (in this section referred to as the ‘Trade Representative’) shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the prioritization of acts, policies, or practices of foreign governments that raise concerns with respect to obligations under the WTO Agreements or any other trade agreement to which the United States is a party, or otherwise create or maintain barriers to United States goods, services, or investment.

“(2) IDENTIFICATION OF TRADE ENFORCEMENT PRIORITIES.—In identifying acts, policies, or practices of foreign governments as trade enforcement priorities under this subsection, the United States Trade Representative shall focus on those acts, policies, and practices the elimination of which is likely to have the most significant potential to increase United States economic growth, and take into account all relevant factors, including—

“(A) the economic significance of any potential inconsistency between an obligation assumed by a foreign government pursuant to a trade agreement to which both the foreign government and the United States are parties and the acts, policies, or practices of that government;

“(B) the impact of the acts, policies, or practices of a foreign government on maintaining and creating United States jobs and productive capacity;

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

“(D) the major barriers and trade distorting practices described in other relevant reports addressing international trade and investment barriers prepared by a Federal agency or congressional commission during the 12 months preceding the date of the most recent report under paragraph (3);

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

“(F) the implications of a foreign government’s procurement plans and policies; and

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

“(3) REPORT ON TRADE ENFORCEMENT PRIORITIES AND ACTIONS TAKEN TO ADDRESS.—

“(A) IN GENERAL.—Not later than July 31 of each calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on acts, policies, or practices of foreign governments identified as trade enforcement priorities based on the consultations under paragraph (1) and the criteria set forth in paragraph (2).

“(B) REPORT IN SUBSEQUENT YEARS.—The Trade Representative shall include, when reporting under subparagraph (A) in any calendar year after the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, a description of actions taken to address any acts, policies, or practices of foreign governments identified as trade enforcement priorities under this subsection in the calendar year preceding that report and, as relevant, any year before that calendar year.

“(b) SEMI-ANNUAL ENFORCEMENT CONSULTATIONS.—

“(1) IN GENERAL.—At the same time as the reporting under subsection (a)(3), and not later than January 31 of each following year, the Trade Representative shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the identification, prioritization, investigation, and resolution of acts, policies, or practices of foreign governments of concern with respect to obligations under the WTO Agreements or any other trade agreement to which the United States is a party, or that otherwise create or maintain trade barriers.

“(2) ACTS, POLICIES, OR PRACTICES OF CONCERN.—The semi-annual enforcement consultations required by paragraph (1) shall address acts, policies, or practices of foreign governments that raise concerns with respect to obligations under the WTO Agreements or any other trade agreement to which the United States is a party, or otherwise create or maintain trade barriers, including—

“(A) engagement with relevant trading partners;

“(B) strategies for addressing such concerns;

“(C) availability and deployment of resources to be used in the investigation or resolution of such concerns;

“(D) the merits of any potential dispute resolution proceeding under the WTO Agreements or any other trade agreement to which the United States is a party relating to such concerns; and

“(E) any other aspects of such concerns.

“(3) ACTIVE INVESTIGATIONS.—The semi-annual enforcement consultations required by paragraph (1) shall address acts, policies, or practices that the Trade Representative is actively investigating with respect to obligations under the WTO Agreements or any other trade agreement to which the United States is a party, including—

“(A) strategies for addressing concerns raised by such acts, policies, or practices;

“(B) any relevant timeline with respect to investigation of such acts, policies, or practices;

“(C) the merits of any potential dispute resolution proceeding under the WTO Agreements or any other trade agreement to which the United States is a party with respect to such acts, policies, or practices;

“(D) barriers to the advancement of the investigation of such acts, policies, or practices; and

“(E) any other matters relating to the investigation of such acts, policies, or practices.

“(4) ONGOING ENFORCEMENT ACTIONS.—The semi-annual enforcement consultations required by paragraph (1) shall address all ongoing enforcement actions taken by or against the United States with respect to obligations under the WTO Agreements or any other trade agreement to which the United States is a party, including—

“(A) any relevant timeline with respect to such actions;

“(B) the merits of such actions;

“(C) any prospective implementation actions;

“(D) potential implications for any law or regulation of the United States;

“(E) potential implications for United States stakeholders, domestic competitors, and exporters; and

“(F) other issues relating to such actions.

“(5) ENFORCEMENT RESOURCES.—The semi-annual enforcement consultations required by paragraph (1) shall address the availability and deployment of enforcement resources, resource constraints on monitoring and enforcement activities, and strategies to address those constraints, including the use of available resources of other Federal agencies to enhance monitoring and enforcement capabilities.

“(c) INVESTIGATION AND RESOLUTION.—In the case of any acts, policies, or practices of a foreign government identified as a trade enforcement priority under subsection (a), the Trade Representative shall, not later than the date of the first semi-annual enforcement consultations held under subsection (b) after the identification of the priority, take appropriate action to address that priority, including—

“(1) engagement with the foreign government to resolve concerns raised by such acts, policies, or practices;

“(2) initiation of an investigation under section 302(b)(1) with respect to such acts, policies, or practices;

“(3) initiation of negotiations for a bilateral agreement that provides for resolution of concerns raised by such acts, policies, or practices; or

“(4) initiation of dispute settlement proceedings under the WTO Agreements or any other trade agreement to which the United States is a party with respect to such acts, policies, or practices.

“(d) ENFORCEMENT NOTIFICATIONS AND CONSULTATION.—

“(1) INITIATION OF ENFORCEMENT ACTION.—The Trade Representative shall notify and consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives in advance of initiation of any formal trade dispute by or against the United States taken in regard to an obligation under the WTO Agreements or any other trade agreement to which the United States is a party. With respect to a formal trade dispute against the United States, if advance notification and consultation are not possible, the Trade Representative shall notify and consult at the earliest practicable opportunity after initiation of the dispute.

“(2) CIRCULATION OF REPORTS.—The Trade Representative shall notify and consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives in advance of the announced or anticipated

circulation of any report of a dispute settlement panel or the Appellate Body of the World Trade Organization or of a dispute settlement panel under any other trade agreement to which the United States is a party with respect to a formal trade dispute by or against the United States.

“(e) DEFINITIONS.—In this section:

“(1) WTO.—The term ‘WTO’ means the World Trade Organization.

“(2) WTO AGREEMENT.—The term ‘WTO Agreement’ has the meaning given that term in section 2(9) of the Uruguay Round Agreements Act (19 U.S.C. 3501(9)).

“(3) WTO AGREEMENTS.—The term ‘WTO Agreements’ means the WTO Agreement and agreements annexed to that Agreement.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 310 and inserting the following:”.

“Sec. 310. Trade enforcement priorities.”.

**SEC. 602. EXERCISE OF WTO AUTHORIZATION TO SUSPEND CONCESSIONS OR OTHER OBLIGATIONS UNDER TRADE AGREEMENTS.**

(a) IN GENERAL.—Section 306 of the Trade Act of 1974 (19 U.S.C. 2416) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) EXERCISE OF WTO AUTHORIZATION TO SUSPEND CONCESSIONS OR OTHER OBLIGATIONS.—If—

“(1) action has terminated pursuant to section 307(c),

“(2) the petitioner or any representative of the domestic industry that would benefit from reinstatement of action has submitted to the Trade Representative a written request for reinstatement of action, and

“(3) the Trade Representatives has completed the requirements of subsection (d) and section 307(c)(3),

the Trade Representative may at any time determine to take action under section 301(c) to exercise an authorization to suspend concessions or other obligations under Article 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16))).”.

(b) CONFORMING AMENDMENTS.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended—

(1) in section 301(c)(1) (19 U.S.C. 2411(c)(1)), in the matter preceding subparagraph (A), by inserting “or section 306(c)” after “subsection (a) or (b)”;

(2) in section 306(b) (19 U.S.C. 2416(b)), in the subsection heading, by striking “FURTHER ACTION” and inserting “ACTION ON THE BASIS OF MONITORING”;

(3) in section 306(d) (19 U.S.C. 2416(d)), as redesignated by subsection (a)(1), by inserting “or (c)” after “subsection (b)”; and

(4) in section 307(c)(3) (19 U.S.C. 2417(c)(3)), by inserting “or if a request is submitted to the Trade Representative under section 306(c)(2) to reinstate action,” after “under section 301.”.

**SEC. 603. TRADE MONITORING.**

(a) IN GENERAL.—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following:

**“SEC. 205. TRADE MONITORING.**

“(a) MONITORING TOOL FOR IMPORTS.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the United States International Trade Commission shall make available on a website of the Commission an import monitoring tool to allow the public access to data on the volume and value of goods imported to the United States for the purpose of assessing whether such data has changed with respect to such goods over a period of time.

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

“(3) PERIODS OF TIME.—The Commission shall ensure that data accessed through the monitoring tool under paragraph (1) includes data for the most recent quarter for which such data are available and previous quarters as the Commission considers practicable.

“(b) MONITORING REPORTS.—

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

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

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

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

“Sec. 205. 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.

#### (a) MAJOR TRADING PARTNER REPORT.—

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

#### (2) ELEMENTS.—

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

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

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

(II) that country's current account balance as a percentage of its gross domestic product;

(III) the change in that country's current account balance as a percentage of its gross domestic product during the 3-year period preceding the submission of the report;

(IV) that country's foreign exchange reserves as a percentage of its short-term debt; and

(V) that country's foreign exchange reserves as a percentage of its gross domestic product; and

(ii) an enhanced analysis of macroeconomic and exchange rate policies for each country—

(I) that is a major trading partner of the United States;

(II) the currency of which is persistently and substantially undervalued;

(III) that has—

(aa) a significant bilateral trade surplus with the United States; and

(bb) a material global current account surplus; and

(IV) that has engaged in persistent one-sided intervention in the foreign exchange market.

(B) ENHANCED ANALYSIS.—Each enhanced analysis under subparagraph (A)(ii) shall include, for each country with respect to which an analysis is made under that subparagraph—

(i) a description of developments in the currency markets of that country, including, to the greatest extent feasible, developments with respect to currency interventions;

(ii) a description of trends in the real effective exchange rate of the currency of that country and in the degree of undervaluation of that currency;

(iii) an analysis of changes in the capital controls and trade restrictions of that country; and

(iv) patterns in the reserve accumulation of that country.

(b) ENGAGEMENT ON EXCHANGE RATE AND ECONOMIC POLICIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the President, through the Secretary, shall commence enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report submitted under subsection (a), in order to—

(A) urge implementation of policies to address the causes of the undervaluation of its currency, its bilateral trade surplus with the United States, and its material global current account surplus, including undervaluation and surpluses relating to exchange rate management;

(B) express the concern of the United States with respect to the adverse trade and economic effects of that undervaluation and those surpluses;

(C) develop measurable objectives for addressing that undervaluation and those surpluses; and

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

(2) EXCEPTION.—The Secretary may determine not to enhance bilateral engagement with a country under paragraph (1) for which an enhanced analysis of macroeconomic and exchange rate policies is included in the report submitted under subsection (a) if the Secretary submits to the appropriate committees of Congress a report that describes how the currency and other macroeconomic policies of that country are addressing the undervaluation and surpluses specified in paragraph (1)(A) with respect to that country, including undervaluation and surpluses relating to exchange rate management.

(c) REMEDIAL ACTION.—

(1) IN GENERAL.—If, on the date that is one year after the commencement of enhanced bilateral engagement by the President with respect to a country under subsection (b)(1), the country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A) with respect to that country, the President may take one or more of the following actions:

(A) Prohibit the Overseas Private Investment Corporation from approving, on and after such date, any new financing (including any insurance, reinsurance, or guarantee) with respect to a project located in that country.

(B) Except as provided in paragraph (2), and pursuant to paragraph (3), prohibit the Federal Government from procuring, or entering into any contract for the procurement of, goods or services from that country on and after such date.

(C) Instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to call for additional rigorous surveillance of the macroeconomic and exchange rate policies of that country and, as appropriate, formal consultations on findings of currency manipulation.

(D) Instruct the United States Trade Representative to take into account, in consultation with the Secretary, in assessing whether to enter into a bilateral or regional trade agreement with that country or to initiate or participate in negotiations with respect to a bilateral or regional trade agreement with that country, the extent to which that country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A).

(2) EXCEPTION.—The President may not apply a prohibition under paragraph (1)(B) with respect to a country that is a party to the Agreement on Government Procurement or a free trade agreement to which the United States is a party.

(3) CONSULTATIONS.—

(A) OFFICE OF MANAGEMENT AND BUDGET.—Before applying a prohibition under paragraph (1)(B), the President shall consult with the Director of the Office of Management and Budget to determine whether such prohibition would subject the taxpayers of the United States to unreasonable cost.

(B) CONGRESS.—The President shall consult with the appropriate committees of Congress with respect to any action the President takes under paragraph (1)(B), including whether the President has consulted as required under subparagraph (A).

(d) DEFINITIONS.—In this section:

(1) AGREEMENT ON GOVERNMENT PROCUREMENT.—The term “Agreement on Government Procurement” means the agreement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)).

(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate; and

(B) the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(3) COUNTRY.—The term “country” means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(4) REAL EFFECTIVE EXCHANGE RATE.—The term “real effective exchange rate” means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

**SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EXCHANGE RATE POLICY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Advisory Committee on International Exchange Rate Policy (in this section referred to as the “Committee”).

(2) DUTIES.—The Committee shall be responsible for advising the Secretary of the Treasury with respect to the impact of

international exchange rates and financial policies on the economy of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of 9 members as follows, none of whom may be employees of the Federal Government:

(A) Three members shall be appointed by the President pro tempore of the Senate, upon the recommendation of the chairmen and ranking members of the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the chairmen and ranking members of the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(C) Three members shall be appointed by the President.

(2) QUALIFICATIONS.—Members shall be selected under paragraph (1) on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

(3) TERMS.—

(A) IN GENERAL.—Members shall be appointed for a term of 2 years or until the Committee terminates.

(B) REAPPOINTMENT.—A member may be reappointed to the Committee for additional terms.

(4) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) DURATION OF COMMITTEE.—

(1) IN GENERAL.—The Committee shall terminate on the date that is 2 years after the date of the enactment of this Act unless renewed by the President for a subsequent 2-year period.

(2) CONTINUED RENEWAL.—The President may continue to renew the Committee for successive 2-year periods by taking appropriate action to renew the Committee prior to the date on which the Committee would otherwise terminate.

(d) MEETINGS.—The Committee shall hold not less than 2 meetings each calendar year.

(e) CHAIRPERSON.—

(1) IN GENERAL.—The Committee shall elect from among its members a chairperson for a term of 2 years or until the Committee terminates.

(2) REELECTION; SUBSEQUENT TERMS.—A chairperson of the Committee may be reelected chairperson but is ineligible to serve consecutive terms as chairperson.

(f) STAFF.—The Secretary of the Treasury shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out the activities of the Committee.

(g) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) EXCEPTION.—Meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of section 10

and section 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the Secretary of the Treasury that such meetings will be concerned with matters the disclosure of which—

(A) would seriously compromise the development by the Government of the United States of monetary or financial policy; or

(B) is likely to—

(i) lead to significant financial speculation in currencies, securities, or commodities; or

(ii) significantly endanger the stability of any financial institution.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury for each fiscal year in which the Committee is in effect \$1,000,000 to carry out this section.

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

### **SEC. 801. SHORT TITLE.**

This title may be cited as the “U.S. Customs and Border Protection Authorization Act”.

### **SEC. 802. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION.**

(a) IN GENERAL.—Section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended to read as follows:

#### **“SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.**

“(a) IN GENERAL.—There is established in the Department an agency to be known as U.S. Customs and Border Protection.

“(b) COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.—There shall be at the head of U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection (in this section referred to as the ‘Commissioner’), who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) DUTIES.—The Commissioner shall—

“(1) ensure the interdiction of persons and goods illegally entering or exiting the United States;

“(2) facilitate and expedite the flow of legitimate travelers and trade;

“(3) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States, in cases in which such persons are entering, or have recently entered, the United States;

“(4) safeguard the borders of the United States to protect against the entry of dangerous goods;

“(5) oversee the functions of the Office of Trade established under section 802(h) of the Trade Facilitation and Trade Enforcement Act of 2015;

“(6) enforce and administer all customs laws of the United States, including the Tariff Act of 1930;

“(7) enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as necessary for the inspection, processing, and admission of persons who seek to enter or depart the United States, and as necessary to ensure the detection, interdiction, removal, departure from the United States, short-term detention, and transfer of persons unlawfully entering, or who have recently unlawfully entered, the United States, in coordination with U.S. Immigration and Customs Enforcement and United States Citizenship and Immigration Services;

“(8) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

“(9) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);

“(10) enforce and administer the laws relating to agricultural import and entry inspection referred to in section 421;

“(11) in coordination with the Under Secretary for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department’s acquisition management directives for major acquisition programs of U.S. Customs and Border Protection;

“(12) enforce and administer—

“(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945; Public Law 109-347); and

“(B) the Customs-Trade Partnership Against Terrorism program under sections 211 through 223 of such Act (6 U.S.C. 961-973);

“(13) conduct polygraph examinations in accordance with section 3(1) of the Anti-Border Corruption Act of 2010 (Public Law 111-376);

“(14) establish the standard operating procedures described in subsection (k);

“(15) carry out the training required under subsection (l); and

“(16) carry out other duties and powers prescribed by law or delegated by the Secretary.

“(d) DEPUTY COMMISSIONER.—There shall be in U.S. Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of U.S. Customs and Border Protection.

“(e) U.S. BORDER PATROL.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection the U.S. Border Patrol.

“(2) CHIEF.—There shall be at the head of the U.S. Border Patrol a Chief, who shall report to the Commissioner.

“(3) DUTIES.—The U.S. Border Patrol shall—

“(A) serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported into or exported from the United States at a place other than a designated port of entry;

“(B) deter and prevent illegal entry of terrorists, terrorist weapons, persons, and contraband; and

“(C) carry out other duties and powers prescribed by the Commissioner.

“(f) OFFICE OF AIR AND MARINE OPERATIONS.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Air and Marine Operations.

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Air and Marine Operations an Assistant Commissioner, who shall report to the Commissioner.

“(3) DUTIES.—The Office of Air and Marine Operations shall—

“(A) serve as the law enforcement office within U.S. Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contraband across the borders of the United States in the air and maritime environment;

“(B) conduct joint aviation and marine operations with U.S. Immigration and Customs Enforcement;

“(C) conduct aviation and marine operations with international, Federal, State, and local law enforcement agencies, as appropriate;

“(D) administer the Air and Marine Operations Center established under paragraph (4); and

“(E) carry out other duties and powers prescribed by the Commissioner.

“(4) AIR AND MARINE OPERATIONS CENTER.—

“(A) IN GENERAL.—There is established in the Office of Air and Marine Operations an Air and Marine Operations Center.

“(B) EXECUTIVE DIRECTOR.—There shall be at the head of the Air and Marine Operations Center an Executive Director, who shall report to the Assistant Commissioner of the Office of Air and Marine Operations.

“(C) DUTIES.—The Air and Marine Operations Center shall—

“(i) manage the air and maritime domain awareness of the Department;

“(ii) monitor and coordinate the airspace for Unmanned Aerial Systems operations of the Office of Air and Marine Operations in U.S. Customs and Border Protection;

“(iii) detect, identify, and coordinate a response to threats to national security in the air domain;

“(iv) provide aviation and marine support to other Federal, State, tribal, and local agencies; and

“(v) carry out other duties and powers prescribed by the Assistant Commissioner.

“(g) OFFICE OF FIELD OPERATIONS.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Field Operations.

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Field Operations an Assistant Commissioner, who shall report to the Commissioner.

“(3) DUTIES.—The Office of Field Operations shall coordinate the enforcement activities of U.S. Customs and Border Protection at United States air, land, and sea ports of entry to—

“(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

“(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

“(C) prevent illicit drugs, agricultural pests, and contraband from entering the United States;

“(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

“(E) administer the National Targeting Center established under paragraph (4); and

“(F) carry out other duties and powers prescribed by the Commissioner.

“(4) NATIONAL TARGETING CENTER.—

“(A) IN GENERAL.—There is established in the Office of Field Operations a National Targeting Center.

“(B) EXECUTIVE DIRECTOR.—There shall be at the head of the National Targeting Center an Executive Director, who shall report to the Assistant Commissioner of the Office of Field Operations.

“(C) DUTIES.—The National Targeting Center shall—

“(i) serve as the primary forum for targeting operations within U.S. Customs and Border Protection to collect and analyze traveler and cargo information in advance of arrival in the United States;

“(ii) identify, review, and target travelers and cargo for examination;

“(iii) coordinate the examination of entry and exit of travelers and cargo;

“(iv) develop and conduct commercial risk assessment targeting with respect to cargo destined for the United States;

“(v) issue Trade Alerts pursuant to section 111 of the Trade Facilitation and Trade Enforcement Act of 2015; and

“(vi) carry out other duties and powers prescribed by the Assistant Commissioner.

“(5) ANNUAL REPORT ON STAFFING.—Not later than 30 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015 and annually thereafter, the

Assistant Commissioner shall submit to the appropriate congressional committees a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.

“(h) OFFICE OF INTELLIGENCE.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Intelligence.

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Intelligence an Assistant Commissioner, who shall report to the Commissioner.

“(3) DUTIES.—The Office of Intelligence shall—

“(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the duties and responsibilities of U.S. Customs and Border Protection;

“(B) collect and analyze advance traveler and cargo information;

“(C) establish, in coordination with the Chief Intelligence Officer of the Department, as appropriate, intelligence-sharing relationships with Federal, State, local, and tribal agencies and intelligence agencies;

“(D) conduct risk-based covert testing of U.S. Customs and Border Protection operations, including for nuclear and radiological risks; and

“(E) carry out other duties and powers prescribed by the Commissioner.

“(i) OFFICE OF INTERNATIONAL AFFAIRS.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of International Affairs.

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of International Affairs an Assistant Commissioner, who shall report to the Commissioner.

“(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of Policy of the Department, shall—

“(A) coordinate and support U.S. Customs and Border Protection’s foreign initiatives, policies, programs, and activities;

“(B) coordinate and support U.S. Customs and Border Protection’s personnel stationed abroad;

“(C) maintain partnerships and information sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of U.S. Customs and Border Protection duties and responsibilities;

“(D) provide necessary capacity building, training, and assistance to foreign border control agencies to strengthen global supply chain and travel security, as appropriate;

“(E) coordinate mission support services to sustain U.S. Customs and Border Protection’s global activities;

“(F) coordinate U.S. Customs and Border Protection’s engagement in international negotiations; and

“(G) carry out other duties and powers prescribed by the Commissioner.

“(j) OFFICE OF INTERNAL AFFAIRS.—

“(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Internal Affairs.

“(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Internal Affairs an Assistant Commissioner, who shall report to the Commissioner.

“(3) DUTIES.—The Office of Internal Affairs shall—

“(A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of U.S. Customs and Border Protection;

“(B) perform investigations of applicants for employment with U.S. Customs and Border Protection and periodic re-investigations (in accordance with section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341; Public Law 108–458)) of officers, agents, and other employees of United States Custom and Border Protection, including investigations to determine suitability for employment and eligibility for access to classified information;

“(C) manage integrity of U.S. Customs and Border Protection’s counter-intelligence operations, including conduct of counter-intelligence investigations;

“(D) conduct research and analysis regarding misconduct of officers, agents, and other employees of U.S. Customs and Border Protection; and

“(E) carry out other duties and powers prescribed by the Commissioner.

“(k) STANDARD OPERATING PROCEDURES.—

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

“(A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by U.S. Customs and Border Protection personnel at United States ports of entry;

“(B) standard use of force procedures that officers and agents of U.S. Customs and Border Protection may employ in the execution of their duties, including the use of deadly force;

“(C) a uniform, standardized, and publically-available procedure for processing and investigating complaints against officers, agents, and employees of U.S. Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the ‘Privacy Act’ or the ‘Privacy Act of 1974’);

“(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of U.S. Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

“(E) standard operating procedures, acting through the Assistant Commissioner for Air and Marine Operations

and in coordination with the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

“(i) a process for other Federal, State, and local law enforcement agencies to submit mission requests;

“(ii) a formal procedure to determine whether to approve or deny such a mission request;

“(iii) a formal procedure to determine how such mission requests are prioritized and coordinated; and

“(iv) a process regarding the protection and privacy of data and images collected by U.S. Customs and Border Protection through the use of unmanned aerial systems.

“(2) REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

“(A) in the case of a search of information conducted on an electronic device by U.S. Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

“(B) in the case of information collected by U.S. Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

“(3) EXCEPTIONS.—

“(A) IN GENERAL.—The Commissioner may withhold the notifications required under paragraphs (1)(C) and (2) if the Commissioner determines that such notifications would impair national security, law enforcement, or other operational interests.

“(B) TERRORIST WATCH LISTS.—

“(i) SEARCHES.—If the individual subject to search of an electronic device pursuant to subparagraph (A) of paragraph (1) is included on a Government-operated or Government-maintained terrorist watch list, the notifications required under paragraph (2) shall not apply.

“(ii) COMPLAINTS.—If the complainant using the process established under subparagraph (C) of paragraph (1) is included on a Government-operated or Government-maintained terrorist watch list, the notification required under such subparagraph shall not apply.

“(4) UPDATE AND REVIEW.—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

“(5) AUDITS.—The Inspector General of the Department of Homeland Security shall develop and annually administer an

auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the appropriate congressional committees and shall include the following:

“(A) A description of the activities of officers and agents of U.S. Customs and Border Protection with respect to such searches.

“(B) The number of such searches.

“(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

“(D) The number of such devices detained as the result of such searches.

“(E) The number of instances in which information collected from such device was subjected to such searches was transmitted to another Federal agency, including whether such transmission resulted in a prosecution or conviction.

“(6) REQUIREMENTS REGARDING OTHER NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

“(A) in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the appropriate congressional committees; and

“(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

“(7) REPORT ON UNMANNED AERIAL SYSTEMS.—The Commissioner shall submit to the appropriate congressional committees an annual report that reviews whether the use of unmanned aerial systems are being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

“(A) shall be submitted with the President’s annual budget;

“(B) may be submitted in classified form if the Commissioner determines that such is appropriate, and

“(C) shall include—

“(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection is collected and stored; and

“(ii) a list of Federal, State, and local law enforcement agencies that submitted mission requests in the previous year and the disposition of such requests.

“(1) TRAINING.—The Commissioner shall require all officers and agents of U.S. Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

“(m) SHORT TERM DETENTION STANDARDS.—

“(1) ACCESS TO FOOD AND WATER.—The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained at or between a United States port of entry as soon as practicable following the time of such apprehension or during subsequent short term detention.

“(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—

“(A) IN GENERAL.—The Commissioner shall ensure that an individual apprehended by a U.S. Border Patrol agent or an Office of Field Operations officer is provided with information concerning such individual’s rights, including the right to contact a representative of such individual’s government for purposes of United States treaty obligations.

“(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

“(3) SHORT TERM DETENTION DEFINED.—In this subsection, the term ‘short term detention’ means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.

“(4) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

“(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of this section, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the procurement process and standards of entities with which U.S. Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of U.S. Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

“(6) REPORT ON INSPECTIONS OF SHORT-TERM CUSTODY FACILITIES.—The Commissioner shall—

“(A) annually inspect all facilities utilized for short term detention; and

“(B) make publically available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

“(n) WAIT TIMES TRANSPARENCY.—

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

“(A) publish live wait times at the 20 United States airports that support the highest volume of international travel (as determined by available Federal flight data);

“(B) make information about such wait times available to the public in real time through the U.S. Customs and Border Protection Web site;

“(C) submit to the appropriate congressional committees quarterly reports that include compilations of all such wait times and a ranking of such United States airports by wait times; and

“(D) provide adequate staffing at the U.S. Customs and Border Protection information center to ensure timely access for travelers attempting to submit comments or speak with a representative about their entry experiences.

“(2) CALCULATION.—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual’s entry into the U.S. Customs and Border Protection inspection area and such individual’s clearance by a U.S. Customs and Border Protection officer.

“(o) OTHER AUTHORITIES.—

“(1) IN GENERAL.—The Secretary may establish such other offices or Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of U.S. Customs and Border Protection.

“(2) NOTIFICATION.—If the Secretary exercises the authority provided pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees not later than 30 days before exercising such authority.

“(p) OTHER FEDERAL AGENCIES.—Nothing in this section may be construed as affecting in any manner the authority, existing on the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, of any other Federal agency, including the Transportation Security Administration, with respect to the duties of U.S. Customs and Border Protection described in subsection (c).”.

(b) SPECIAL RULES.—

(1) TREATMENT.—Section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section, shall be treated as if included in such Act as of the date of the enactment of such Act, and, in addition to the functions, missions, duties, and authorities specified in such amended section 411, U.S. Customs and Border Protection shall continue to perform and carry out the functions, missions, duties, and authorities under section 411 of such Act as in existence on the day before such date of enactment, and section 415 of such Act.

(2) RULES OF CONSTRUCTION.—

(A) RULES AND REGULATIONS.—Notwithstanding paragraph (1), nothing in this title or any amendment made by this title may be construed as affecting in any manner any rule or regulation issued or promulgated pursuant to any provision of law, including section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such rule or regulation shall continue to have full force and effect on and after such date.

(B) OTHER ACTIONS.—Notwithstanding paragraph (1), nothing in this Act may be construed as affecting in any manner any action, determination, policy, or decision pur-

suant to section 411 of the Homeland Security Act of 2002 as in existence on the day before the date of the enactment of this Act, and any such action, determination, policy, or decision shall continue to have full force and effect on and after such date.

(c) CONTINUATION IN OFFICE.—

(1) COMMISSIONER.—The individual serving as the Commissioner of Customs on the day before the date of the enactment of this Act may serve as the Commissioner of U.S. Customs and Border Protection on and after such date of enactment until a Commissioner of U.S. Customs and Border Protection is appointed under section 411 of the Homeland Security Act of 2002, as amended by subsection (a) of this section.

(2) OTHER POSITIONS.—The individuals serving as Assistant Commissioners and other officers and officials under section 411 of the Homeland Security Act of 2002 on the day before the date of the enactment of this Act may serve as the appropriate Assistant Commissioners and other officers and officials under such section 411 as amended by subsection (a) of this section unless the Commissioner of U.S. Customs and Border Protection determines that another individual should hold such position or positions.

(d) REFERENCE.—

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

(2) OTHER REFERENCES.—On and after the date of the enactment of this Act, any reference in law or regulations to the “Commissioner of Customs” or the “Commissioner of the Customs Service” shall be deemed to be a reference to the Commissioner of U.S. Customs and Border Protection.

(e) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the item relating to section 411 and inserting the following new item:

“Sec. 411. Establishment of U.S. Customs and Border Protection; Commissioner, Deputy Commissioner, and operational offices.”.

(f) REPEALS.—Sections 416 and 418 of the Homeland Security Act of 2002 (6 U.S.C. 216 and 218), and the items relating to such sections in the table of contents in section 1(b) of such Act, are repealed.

(g) CLERICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in title I—

(i) in section 102(f)(10) (6 U.S.C. 112(f)(10)), by striking “the Directorate of Border and Transportation Security” and inserting “the Commissioner of U.S. Customs and Border Protection”; and

(ii) in section 103(a)(1) (6 U.S.C. 113(a)(1))—

(I) in subparagraph (C), by striking “An Under Secretary for Border and Transportation Secu-

urity.” and inserting “A Commissioner of U.S. Customs and Border Protection.”; and

(II) in subparagraph (G), by striking “A Director of the Office of Counternarcotics Enforcement.” and inserting “A Director of U.S. Immigration and Customs Enforcement.”; and

(B) in title IV—

(i) by striking the title heading and inserting “**BORDER, MARITIME, AND TRANSPORTATION SECURITY**”;

(ii) in subtitle A—

(I) by striking the subtitle heading and inserting “**Border, Maritime, and Transportation Security Responsibilities and Functions**”; and

(II) in section 402 (6 U.S.C. 202)—

(aa) in the section heading, by striking “**RESPONSIBILITIES**” and inserting “**BORDER, MARITIME, AND TRANSPORTATION RESPONSIBILITIES**”; and

(bb) by striking “, acting through the Under Secretary for Border and Transportation Security.”;

(iii) in subtitle B—

(I) by striking the subtitle heading and inserting “**U.S. Customs and Border Protection**”;

(II) in section 412(b) (6 U.S.C. 212), by striking “the United States Customs Service” each place it appears and inserting “U.S. Customs and Border Protection”;

(III) in section 413 (6 U.S.C. 213), by striking “available to the United States Customs Service or”;

(IV) in section 414 (6 U.S.C. 214), by striking “the United States Customs Service” and inserting “U.S. Customs and Border Protection”; and

(V) in section 415 (6 U.S.C. 215)—

(aa) in paragraph (7), by inserting before the colon the following: “, and of U.S. Customs and Border Protection on the day before the effective date of the U.S. Customs and Border Protection Authorization Act”; and

(bb) in paragraph (8), by inserting before the colon the following: “, and of U.S. Customs and Border Protection on the day before the effective date of the U.S. Customs and Border Protection Authorization Act”;

(iv) in subtitle C—

(I) by striking section 424 (6 U.S.C. 234) and inserting the following new section:

**“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.**

“Notwithstanding any other provision of this Act, the Transportation Security Administration shall be maintained as a distinct entity within the Department.”; and

(II) in section 430 (6 U.S.C. 238)—

(aa) by amending subsection (a) to read as follows:

“(a) ESTABLISHMENT.—There is established in the Department an Office for Domestic Preparedness.”;

(bb) in subsection (b), by striking the second sentence; and

(cc) in subsection (c)(7), by striking “Directorate” and inserting “Department”; and

(v) in subtitle D—

(I) in section 441 (6 U.S.C. 251)—

(aa) by striking the section heading and inserting “**TRANSFER OF FUNCTIONS**”; and

(bb) by striking “Under Secretary for Border and Transportation Security” and inserting “Secretary”;

(II) in section 443 (6 U.S.C. 253)—

(aa) in the matter preceding paragraph (1), by striking “Under Secretary for Border and Transportation Security” and inserting “Secretary”; and

(bb) by striking “the Bureau of Border Security” and inserting “U.S. Immigration and Customs Enforcement” each place it appears; and

(III) by amending section 444 (6 U.S.C. 254) to read as follows:

**“SEC. 444. EMPLOYEE DISCIPLINE.**

“Notwithstanding any other provision of law, the Secretary may impose disciplinary action on any employee of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection who willfully deceives Congress or agency leadership on any matter.”.

(2) CONFORMING AMENDMENTS.—Section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201) is repealed.

(3) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended—

(A) by striking the item relating to title IV and inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY”;

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

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities and Functions”;

(C) by striking the item relating to section 401;

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

“Subtitle B—U.S. Customs and Border Protection”;

(E) by striking the item relating to section 441 and inserting the following:

“Sec. 441. Transfer of functions.”;

and

(F) by striking the item relating to section 442 and inserting the following:

“Sec. 442. U.S. Immigration and Customs Enforcement.”

(h) OFFICE OF TRADE.—

(1) TRADE OFFICES AND FUNCTIONS.—The Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071 et seq.), is amended by adding at the end the following:

“SEC. 4. OFFICE OF TRADE.

“(a) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Trade.

“(b) ASSISTANT COMMISSIONER.—

“(1) IN GENERAL.—There shall be at the head of the Office of Trade an Assistant Commissioner, who shall report to the Commissioner of U.S. Customs and Border Protection.

“(2) QUALIFICATIONS.—The Assistant Commissioner shall have a minimum of 10 years of professional experience with the customs and trade laws of the United States.

“(3) SENIOR EXECUTIVE SERVICE POSITION.—The position of Assistant Commissioner for Trade shall be a Senior Executive Service position (as defined in section 3132(a) of title 5, United States Code).

“(c) DUTIES.—The Office of Trade shall—

“(1) direct the development and implementation, pursuant to the customs and trade laws of the United States, of policies and regulations administered by U.S. Customs and Border Protection;

“(2) advise the Commissioner with respect to the impact on trade facilitation and trade enforcement of any policy or regulation otherwise proposed or administered by U.S. Customs and Border Protection;

“(3) coordinate and cooperate with the Assistant Commissioner for the Office of Field Operations with respect to the trade facilitation and trade enforcement activities of U.S. Customs and Border Protection carried out at the land borders and ports of entry of the United States;

“(4) direct the development and implementation of matters relating to the priority trade issues identified by the Commissioner of U.S. Customs and Border Protection in the joint strategic plan on trade facilitation and trade enforcement required under section 123A of the Customs and Trade Act of 1990;

“(5) otherwise advise the Commissioner of U.S. Customs and Border Protection with respect to the development and implementation of the joint strategic plan;

“(6) direct the trade enforcement activities of U.S. Customs and Border Protection;

“(7) oversee the trade modernization activities of U.S. Customs and Border Protection, including the development and implementation of the Automated Commercial Environment computer system authorized under section 13031(f)(5) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(5)) and support for the establishment of the International Trade Data System under the oversight of the Department of Treasury pursuant to section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d));

“(8) direct the administration of customs revenue functions as otherwise provided by law or delegated by the Commissioner of U.S. Customs and Border Protection; and

“(9) prepare an annual report to be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than March 1 of each calendar year that includes—

“(A) a summary of the changes to customs policies and regulations adopted by U.S. Customs and Border Protection during the preceding calendar year; and

“(B) a description of the public vetting and interagency consultation that occurred with respect to each such change.

“(d) TRANSFER OF ASSETS, FUNCTIONS, AND PERSONNEL; ELIMINATION OF OFFICES.—

“(1) OFFICE OF INTERNATIONAL TRADE.—

“(A) TRANSFER.—Not later than 30 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Commissioner shall transfer the assets, functions, personnel, and liabilities of the Office of International Trade to the Office of Trade established under subsection (b).

“(B) ELIMINATION.—Not later than 30 days after the date of enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Office of International Trade shall be abolished.

“(C) LIMITATION ON FUNDS.—No funds appropriated to U.S. Customs and Border Protection or the Department of Homeland Security may be used to transfer the assets, functions, personnel, and liabilities of the Office of International Trade to an office other than the Office of Trade established under subsection (a).

“(D) OFFICE OF INTERNATIONAL TRADE DEFINED.—In this paragraph, the term ‘Office of International Trade’ means the Office of International Trade established by section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), as added by section 402 of the Security and Accountability for Every Port Act of 2006 (Public Law 109–347; 120 Stat. 1924), and as in effect on the day before the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015.

“(2) OTHER TRANSFERS.—

“(A) IN GENERAL.—The Commissioner is authorized to transfer any other assets, functions, or personnel within U.S. Customs and Border Protection to the Office of Trade established under subsection (d).

“(B) CONGRESSIONAL NOTIFICATION.—Not less than 90 days prior to the transfer of assets, functions, or personnel under subparagraph (A)(i), the Commissioner shall notify the Committee on Finance of the Senate, the Committee on Homeland Security and Government Affairs of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Homeland Security of the House of Representatives of the specific assets,

functions, or personnel to be transferred, and the reason for the transfer.

“(e) DEFINITIONS.—In this section, the terms ‘customs and trade laws of the United States’, ‘trade enforcement’, and ‘trade facilitation’ have the meanings given such terms in section 2 of the Trade Facilitation and Trade Enforcement Act of 2015.”

(2) CONTINUATION IN OFFICE.—The individual serving as the Assistant Commissioner of the Office of International Trade on the day before the date of the enactment of this Act may serve as the Assistant Commissioner for Trade on or after such date of enactment, at the discretion of the Commissioner.

(3) CONFORMING AMENDMENTS.—Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), as added by section 402 of the Security and Accountability for Every Port Act of 2006 (Public Law 109–347; 120 Stat. 1924), is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(i) REPORTS AND ASSESSMENTS.—

(1) REPORT ON BUSINESS TRANSFORMATION INITIATIVE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on U.S. Customs and Border Protection’s Business Transformation Initiative, including locations where the Initiative is deployed, the types of equipment utilized, a description of protocols and procedures, information on wait times at such locations since deployment, and information regarding the schedule for deployment at new locations.

(2) PORT OF ENTRY INFRASTRUCTURE NEEDS ASSESSMENTS.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall assess the physical infrastructure and technology needs at the 20 busiest land ports of entry (as measured by U.S. Customs and Border Protection) with a particular attention to identify ways to—

(A) improve travel and trade facilitation;

(B) reduce wait times;

(C) improve physical infrastructure and conditions for individuals accessing pedestrian ports of entry;

(D) enter into long-term leases with nongovernmental and private sector entities;

(E) enter into lease-purchase agreements with nongovernmental and private sector entities; and

(F) achieve cost savings through leases described in subparagraphs (D) and (E).

(3) PERSONAL SEARCHES.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of

the Senate a report on supervisor-approved personal searches conducted in the previous year by U.S. Customs and Border Protection personnel. Such report shall include the number of personal searches conducted in each sector and field office, the number of invasive personal searches conducted in each sector and field office, whether personal searches were conducted by Office of Field Operations or U.S. Border Patrol personnel, and how many personal searches resulted in the discovery of contraband.

(j) TRUSTED TRAVELER PROGRAMS.—The Secretary of Homeland Security may not enter into or renew an agreement with the government of a foreign country for a trusted traveler program administered by U.S. Customs and Border Protection unless the Secretary certifies in writing that such government—

(1) routinely submits to INTERPOL for inclusion in INTERPOL's Stolen and Lost Travel Documents database information about lost and stolen passports and travel documents of the citizens and nationals of such country; or

(2) makes available to the United States Government the information described in paragraph (1) through another means of reporting.

(k) SENSE OF CONGRESS REGARDING THE FOREIGN LANGUAGE AWARD PROGRAM.—

(1) FINDINGS.—Congress finds the following:

(A) Congress established the Foreign Language Award Program (FLAP) to incentivize employees at United States ports of entry to utilize their foreign language skills on the job by providing a financial incentive for the use of the foreign language for at least ten percent of their duties after passage of competency tests. FLAP incentivizes the use of more than two dozen languages and has been instrumental in identifying and utilizing U.S. Customs and Border Protection officers and agents who are proficient in a foreign language.

(B) In 1993, Congress provided for dedicated funding for this program by stipulating that certain fees collected by U.S. Customs and Border Protection be used to fund FLAP.

(C) Through FLAP, foreign travelers are aided by having an officer at a port of entry who speaks their language, and U.S. Customs and Border Protection benefits by being able to focus its border security efforts in a more effective manner.

(2) SENSE OF CONGRESS.—It is the sense of Congress that FLAP incentivizes U.S. Customs and Border Protection officers to attain and maintain competency in a foreign language, thereby improving the efficiency of operations for the functioning of U.S. Customs and Border Protection's security mission, making the United States a more welcoming place when foreign travelers find officers can communicate in their language, and helping to expedite traveler processing to reduce wait times.

## TITLE IX—MISCELLANEOUS PROVISIONS

### SEC. 901. DE MINIMIS VALUE.

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

### SEC. 902. CONSULTATION ON TRADE AND CUSTOMS REVENUE FUNCTIONS.

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

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

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

### SEC. 903. PENALTIES FOR CUSTOMS BROKERS.

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

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

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

(3) by adding at the end the following:

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

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

(1) by striking “the Customs Service” each place it appears and inserting “U.S. Customs and Border Protection”;

(2) in subsection (d)(2)(B), by striking “The Customs Service” and inserting “U.S. Customs and Border Protection”; and

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

### SEC. 904. AMENDMENTS TO CHAPTER 98 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) ARTICLES EXPORTED AND RETURNED, ADVANCED OR IMPROVED ABROAD.—

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

“(f)(1) For purposes of subheadings 9802.00.40 and 9802.00.50, fungible articles exported from the United States for the purposes described in such subheadings—

“(A) may be commingled; and

“(B) the origin, value, and classification of such articles may be accounted for using an inventory management method.

“(2) If a person chooses to use an inventory management method under this paragraph with respect to fungible articles, the person shall use the same inventory management method for any other articles with respect to which the person claims fungibility under this paragraph.

“(3) For the purposes of this paragraph—

“(A) the term ‘fungible articles’ means merchandise or articles that, for commercial purposes, are identical or interchangeable in all situations; and

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

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

(b) MODIFICATION OF PROVISIONS RELATING TO RETURNED PROPERTY.—

(1) IN GENERAL.—The article description for heading 9801.00.10 of the Harmonized Tariff Schedule of the United States is amended by inserting after “exported” the following: “, or any other products when returned within 3 years after having been exported”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date of the enactment of this Act.

(c) DUTY-FREE TREATMENT FOR CERTAIN UNITED STATES GOVERNMENT PROPERTY RETURNED TO THE UNITED STATES.—

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

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property .....	Free					”.
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(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date of the enactment of this Act.

**SEC. 905. EXEMPTION FROM DUTY OF RESIDUE OF BULK CARGO CONTAINED IN INSTRUMENTS OF INTERNATIONAL TRAFFIC PREVIOUSLY EXPORTED FROM THE UNITED STATES.**

(a) **IN GENERAL.**—General Note 3(e) of the Harmonized Tariff Schedule of the United States is amended—

- (1) in subparagraph (v), by striking “and” at the end;
- (2) in subparagraph (vi), by adding “and” at the end;
- (3) by inserting after subparagraph (vi) (as so amended) the following new subparagraph:

“(vii) residue of bulk cargo contained in instruments of international traffic previously exported from the United States.”; and

- (4) by adding at the end of the flush text following subparagraph (vii) (as so added) the following: “For purposes of subparagraph (vii) of this paragraph: The term ‘residue’ means material of bulk cargo that remains in an instrument of international traffic after the bulk cargo is removed, with a quantity, by weight or volume, not exceeding 7 percent of the bulk cargo, and with no or de minimis value. The term ‘bulk cargo’ means cargo that is unpackaged and is in either solid, liquid, or gaseous form. The term ‘instruments of international traffic’ means containers or holders, capable of and suitable for repeated use, such as lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic, and any additional articles or classes of articles that the Commissioner of U.S. Customs and Border Protection designates as instruments of international traffic.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply with respect to residue of bulk cargo contained in instruments of international traffic that are imported into the customs territory of the United States on or after such date of enactment and that previously have been exported from the United States.

**SEC. 906. DRAWBACK AND REFUNDS.**

(a) **ARTICLES MADE FROM IMPORTED MERCHANDISE.**—Section 313(a) of the Tariff Act of 1930 (19 U.S.C. 1313(a)) is amended by striking “the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such” and inserting “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1) shall be refunded as drawback, except that”.

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

- (1) by striking “If imported” and inserting the following:
  - “(1) **IN GENERAL.**—If imported”;
  - (2) by striking “and any other merchandise (whether imported or domestic) of the same kind and quality are” and inserting “or merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise is”;
  - (3) by striking “three years” and inserting “5 years”;
  - (4) by striking “the receipt of such imported merchandise by the manufacturer or producer of such articles” and inserting “the date of importation of such imported merchandise”;

(5) by striking “an amount of drawback equal to” and all that follows through the end period and inserting “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1), but only if those articles have not been used prior to such exportation or destruction.”; and

(6) by adding at the end the following:

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

“(A) MANUFACTURERS AND PRODUCERS.—Drawback shall be allowed under paragraph (1) with respect to an article manufactured or produced using imported merchandise or other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise only if the manufacturer or producer of the article received such imported merchandise or such other merchandise, directly or indirectly, from the importer.

“(B) EXPORTERS AND DESTROYERS.—Drawback shall be allowed under paragraph (1) with respect to a manufactured or produced article that is exported or destroyed only if the exporter or destroyer received that article, directly or indirectly, from the manufacturer or producer.

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

“(3) SUBMISSION OF BILL OF MATERIALS OR FORMULA.—

“(A) IN GENERAL.—Drawback shall be allowed under paragraph (1) with respect to an article manufactured or produced using imported merchandise or other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise only if the person making the drawback claim submits with the claim a bill of materials or formula identifying the merchandise and article by the 8-digit HTS subheading number and the quantity of the merchandise.

“(B) BILL OF MATERIALS AND FORMULA DEFINED.—In this paragraph, the terms ‘bill of materials’ and ‘formula’ mean records kept in the normal course of business that identify each component incorporated into a manufactured or produced article or that identify the quantity of each element, material, chemical, mixture, or other substance incorporated into a manufactured article.

“(4) SPECIAL RULE FOR SOUGHT CHEMICAL ELEMENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1), a sought chemical element may be—

“(i) considered imported merchandise, or merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, used in the manufacture or production of an article as described in paragraph (1); and

“(ii) substituted for source material containing that sought chemical element, without regard to whether the sought chemical element and the source material

are classifiable under the same 8-digit HTS sub-heading number, and apportioned quantitatively, as appropriate.

“(B) SOUGHT CHEMICAL ELEMENT DEFINED.—In this paragraph, the term ‘sought chemical element’ means an element listed in the Periodic Table of Elements that is imported into the United States or a chemical compound consisting of those elements, either separately in elemental form or contained in source material.”

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

(1) in paragraph (1)—

(A) in subparagraph (C)(ii), by striking “under a certificate of delivery” each place it appears;

(B) in subparagraph (D)—

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

(ii) by striking “the Customs Service” and inserting “U.S. Customs and Border Protection”; and

(C) in the flush text at the end, by striking “the full amount of the duties paid upon such merchandise, less 1 percent,” and inserting “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1)”;

(2) in paragraph (2), by striking “the Customs Service” and inserting “U.S. Customs and Border Protection”; and

(3) by amending paragraph (3) to read as follows:

“(3) EVIDENCE OF TRANSFERS.—Transfers of merchandise under paragraph (1) may be evidenced by business records kept in the normal course of business and no additional certificates of transfer shall be required.”

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

“(i) PROOF OF EXPORTATION.—A person claiming drawback under this section based on the exportation of an article shall provide proof of the exportation of the article. Such proof of exportation—

“(1) shall establish fully the date and fact of exportation and the identity of the exporter; and

“(2) may be established through the use of records kept in the normal course of business or through an electronic export system of the United States Government, as determined by the Commissioner of U.S. Customs and Border Protection.”

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

(1) in paragraph (1)—

(A) in subparagraph (A), in the matter preceding clause

(i)—

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

(ii) by inserting “and before the drawback claim is filed” after “the date of importation”; and

(B) in the flush text at the end, by striking “99 percent of the amount of each duty, tax, or fee so paid” and inserting “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1)”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “paragraph (4)” and inserting “paragraphs (4), (5), and (6)”;

(B) in subparagraph (A), by striking “commercially interchangeable with” and inserting “classifiable under the same 8-digit HTS subheading number as”;

(C) in subparagraph (B)—

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

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

(D) in subparagraph (C)(ii), by striking subclause (II) and inserting the following:

“(II) received the imported merchandise, other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, or any combination of such imported merchandise and such other merchandise, directly or indirectly from the person who imported and paid any duties, taxes, and fees imposed under Federal law upon importation or entry and due on the imported merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);”;

(E) in the flush text at the end—

(i) by striking “the amount of each such duty, tax, and fee” and all that follows through “99 percent of that duty, tax, or fee” and inserting “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback”; and

(ii) by striking the last sentence and inserting the following: “Notwithstanding subparagraph (A), drawback shall be allowed under this paragraph with respect to wine if the imported wine and the exported wine are of the same color and the price variation between the imported wine and the exported wine does not exceed 50 percent. Transfers of merchandise may be evidenced by business records kept in the normal course of business and no additional certificates of transfer shall be required.”; and

(3) in paragraph (3)(B), by striking “the commercially interchangeable merchandise” and inserting “merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise”; and

(4) by adding at the end the following:

“(5)(A) For purposes of paragraph (2) and except as provided in subparagraph (B), merchandise may not be substituted for imported merchandise for drawback purposes based on the 8-digit HTS subheading number if the article description for the 8-digit HTS subheading number under which the imported merchandise is classified begins with the term ‘other’.

“(B) In cases described in subparagraph (A), merchandise may be substituted for imported merchandise for drawback purposes if—

“(i) the other merchandise and such imported merchandise are classifiable under the same 10-digit HTS statistical reporting number; and

“(ii) the article description for that 10-digit HTS statistical reporting number does not begin with the term ‘other’.

“(6)(A) For purposes of paragraph (2), a drawback claimant may use the first 8 digits of the 10-digit Schedule B number for merchandise or an article to determine if the merchandise or article is classifiable under the same 8-digit HTS subheading number as the imported merchandise, without regard to whether the Schedule B number corresponds to more than one 8-digit HTS subheading number.

“(B) In this paragraph, the term ‘Schedule B’ means the Department of Commerce Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States.”.

(f) LIABILITY FOR DRAWBACK CLAIMS.—Section 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is amended to read as follows:

“(k) LIABILITY FOR DRAWBACK CLAIMS.—

“(1) IN GENERAL.—Any person making a claim for drawback under this section shall be liable for the full amount of the drawback claimed.

“(2) LIABILITY OF IMPORTERS.—An importer shall be liable for any drawback claim made by another person with respect to merchandise imported by the importer in an amount equal to the lesser of—

“(A) the amount of duties, taxes, and fees that the person claimed with respect to the imported merchandise; or

“(B) the amount of duties, taxes, and fees that the importer authorized the other person to claim with respect to the imported merchandise.

“(3) JOINT AND SEVERAL LIABILITY.—Persons described in paragraphs (1) and (2) shall be jointly and severally liable for the amount described in paragraph (2).”.

(g) REGULATIONS.—Section 313(l) of the Tariff Act of 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

“(l) REGULATIONS.—

“(1) IN GENERAL.—Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe.

“(2) CALCULATION OF DRAWBACK.—

“(A) IN GENERAL.—Not later than the date that is 2 years after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015 (or, if later, the effective date provided for in section 906(q)(2)(B) of that Act), the Secretary shall prescribe regulations for determining the calculation of amounts refunded as drawback under this section.

“(B) CLAIMS WITH RESPECT TO UNUSED MERCHANDISE.—The regulations required by subparagraph (A) for determining the calculation of amounts refunded as drawback

under this section shall provide for a refund of equal to 99 percent of the duties, taxes, and fees paid with respect to the imported merchandise, except that where there is substitution of the merchandise or article, then—

“(i) in the case of an article that is exported, the amount of the refund shall be equal to 99 percent of the lesser of—

“(I) the amount of duties, taxes, and fees paid with respect to the imported merchandise; or

“(II) the amount of duties, taxes, and fees that would apply to the exported article if the exported article were imported; and

“(ii) in the case of an article that is destroyed, the amount of the refund shall be an amount that is—

“(I) equal to 99 percent of the lesser of—

“(aa) the amount of duties, taxes, and fees paid with respect to the imported merchandise; and

“(bb) the amount of duties, taxes, and fees that would apply to the destroyed article if the destroyed article were imported; and

“(II) reduced by the value of materials recovered during destruction as provided in subsection (x).

“(C) CLAIMS WITH RESPECT TO ARTICLES INTO WHICH SUBSTITUTE MERCHANDISE IS INCORPORATED.—The regulations required by subparagraph (A) for determining the calculation of amounts refunded as drawback under this section shall provide for a refund of 99 percent of the duties, taxes, and fees paid with respect to the imported merchandise incorporated into an article that is exported or destroyed, except that where there is substitution of the imported merchandise, then—

“(i) in the case of an article that is exported, the amount of the refund shall be equal to 99 percent of the lesser of—

“(I) the amount of duties, taxes, and fees paid with respect to the imported merchandise; or

“(II) the amount of duties, taxes, and fees that would apply to the substituted merchandise if the substituted merchandise were imported; and

“(ii) in the case of an article that is destroyed, the amount of the refund shall be an amount that is—

“(I) equal to 99 percent of the lesser of—

“(aa) the amount of duties, taxes, and fees paid with respect to the imported merchandise; and

“(bb) the amount of duties, taxes, and fees that would apply to the substituted merchandise if the substituted merchandise were imported; and

“(II) reduced by the value of materials recovered during destruction as provided in subsection (x).

“(3) STATUS REPORTS ON REGULATIONS.—Not later than the date that is one year after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, and an-

nually thereafter until the regulations required by paragraph (2) are final, the Secretary shall submit to Congress a report on the status of those regulations.”.

(h) SUBSTITUTION OF FINISHED PETROLEUM DERIVATIVES.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended—

(1) by striking “Harmonized Tariff Schedule of the United States” each place it appears and inserting “HTS”; and

(2) in paragraph (3)(A)—

(A) in clause (ii)(III), by striking “, as so certified in a certificate of delivery or certificate of manufacture and delivery”; and

(B) in the flush text at the end—

(i) by striking “, so designated on the certificate of delivery or certificate of manufacture and delivery”; and

(ii) by striking the last sentence and inserting the following: “The party transferring the merchandise shall maintain records kept in the normal course of business to demonstrate the transfer.”.

(i) PACKAGING MATERIAL.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) is amended—

(1) in paragraph (1), by striking “of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material” and inserting “in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1)”; and

(2) in paragraph (2), by striking “of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material” and inserting “in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (1)”; and

(3) in paragraph (3), by striking “they contain” and inserting “it contains”.

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

(1) in paragraph (1)—

(A) by striking the first sentence and inserting the following: “A drawback entry shall be filed or applied for, as applicable, not later than 5 years after the date on which merchandise on which drawback is claimed was imported.”;

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

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

(2) in paragraph (3)—

(A) in subparagraph (A)—

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

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

(iii) in clause (ii)(I), by striking “3-year” and inserting “5-year”; and

(B) in subparagraph (B), by striking “the periods of time for retaining records set forth in subsection (t) of this section and” and inserting “the period of time for retaining records set forth in”; and

(3) by adding at the end the following:

“(4) All drawback claims filed on and after the date that is 2 years after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015 (or, if later, the effective date provided for in section 906(q)(2)(B) of that Act) shall be filed electronically.”.

(k) DESIGNATION OF MERCHANDISE BY SUCCESSOR.—Section 313(s) of the Tariff Act of 1930 (19 U.S.C. 1313(s)) is amended—

(1) in paragraph (2), by striking subparagraph (B) and inserting the following:

“(B) subject to paragraphs (5) and (6) of subsection (j), imported merchandise, other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, or any combination of such imported merchandise and such other merchandise, that the predecessor received, before the date of succession, from the person who imported and paid any duties, taxes, and fees due on the imported merchandise;”; and

(2) in paragraph (4), by striking “certifies that” and all that follows and inserting “certifies that the transferred merchandise was not and will not be claimed by the predecessor.”.

(l) DRAWBACK CERTIFICATES.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by striking subsection (t).

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

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

“(z) DEFINITIONS.—In this section:

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

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

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

(o) RECORDKEEPING.—Section 508(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1508(c)(3)) is amended—

(1) by striking “3rd” and inserting “5th”; and

(2) by striking “payment” and inserting “liquidation”.

(p) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—

(1) IN GENERAL.—Not later than one year after the issuance of the regulations required by subsection (l)(2) of section 313 of the Tariff Act of 1930, as added by subsection (g) of this section, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the modernization of drawback and refunds under

section 313 of the Tariff Act of 1930, as amended by this section.

(2) CONTENTS.—The report required by paragraph (1) include the following:

(A) An assessment of the modernization of drawback and refunds under section 313 of the Tariff Act of 1930, as amended by this section.

(B) A description of drawback claims that were permissible before the effective date provided for in subsection (q) that are not permissible after that effective date and an identification of industries most affected.

(C) A description of drawback claims that were not permissible before the effective date provided for in subsection (q) that are permissible after that effective date and an identification of industries most affected.

(q) EFFECTIVE DATE.—

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

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

(B) apply to drawback claims filed on or after the date that is 2 years after such date of enactment.

(2) REPORTING OF OPERABILITY OF AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Not later than one year after the date of the enactment of this Act, and not later than 2 years after such date of enactment, the Secretary of the Treasury shall submit to Congress a report on—

(A) the date on which the Automated Commercial Environment will be ready to process drawback claims; and

(B) the date on which the Automated Export System will be ready to accept proof of exportation under subsection (i) of section 313 of the Tariff Act of 1930, as amended by subsection (d).

(3) TRANSITION RULE.—During the one-year period beginning on the date that is 2 years after the date of the enactment of this Act (or, if later, the effective date provided for in paragraph (2)(B)), a person may elect to file a claim for drawback under—

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

(B) section 313 of the Tariff Act of 1930, as in effect on the day before the date of the enactment of this Act.

**SEC. 907. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.**

(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—Section 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) the operation of all United States Trade Representative-led interagency programs during the preceding year and for the year in which the report is submitted.”; and

(2) by adding at the end the following:

“(4) The report shall include, with respect to the matters referred to in paragraph (1)(C), information regarding—

“(A) the objectives and priorities of all United States Trade Representative-led interagency programs for the year, and the reasons therefor;

“(B) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including actions authorized under the trade laws and negotiations with foreign countries;

“(C) the role of each Federal agency participating in the interagency program in achieving such objectives and priorities and activities of each agency with respect to their participation in the program;

“(D) the United States Trade Representative’s coordination of each participating Federal agency to more effectively achieve such objectives and priorities;

“(E) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

“(F) the progress that was made during the preceding year in achieving such objectives and priorities and coordination activities included in the statement provided for such year under this paragraph.”

(b) RESOURCE MANAGEMENT AND STAFFING PLANS.—

(1) ANNUAL PLAN.—

(A) IN GENERAL.—The United States Trade Representative shall on an annual basis develop a plan—

(i) to match available resources of the Office of the United States Trade Representative to projected workload and provide a detailed analysis of how the funds allocated from the prior fiscal year to date have been spent;

(ii) to identify existing staff of the Office and new staff that will be necessary to support the trade negotiation and enforcement functions and powers of the Office (including those of the Trade Policy Staff Committee) as described in section 141 of the Trade Act of 1974 (19 U.S.C. 2171) and section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

(iii) to identify existing staff of the Office and staff of other Federal agencies who will be required to be detailed to support United States Trade Representative-led interagency programs, including any associated expenses; and

(iv) to provide a detailed analysis of the budgetary requirements of United States Trade Representative-led interagency programs for the next fiscal year and provide a detailed analysis of how the funds allocated from the prior fiscal year to date have been spent.

(B) REPORT.—The United States Trade Representative shall submit to the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives and the Committee on Finance and the Committee on Appropriations of the Senate a report that contains the plan required under subparagraph (A). The report required under this subparagraph shall be submitted

in conjunction with the annual budget of the United States Government required to be submitted to Congress under section 1105 of title 31, United States Code.

(2) QUADRENNIAL PLAN.—

(A) IN GENERAL.—Pursuant to the goals and objectives of the strategic plan of the Office of the United States Trade Representative as required under section 306 of title 5, United States Code, the United States Trade Representative shall every 4 years develop a plan—

(i) to analyze internal quality controls and record management of the Office;

(ii) to identify existing staff of the Office and new staff that will be necessary to support the trade negotiation and enforcement functions and powers of the Office (including those of the Trade Policy Staff Committee) as described in section 141 of the Trade Act of 1974 (19 U.S.C. 2171) and section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

(iii) to identify existing staff of the Office and staff in other Federal agencies who will be required to be detailed to support United States Trade Representative-led interagency programs, including any associated expenses;

(iv) to provide an outline of budget justifications, including salaries and expenses as well as non-personnel administrative expenses, for the fiscal years required under the strategic plan; and

(v) to provide an outline of budget justifications, including salaries and expenses as well as non-personnel administrative expenses, for United States Trade Representative-led interagency programs for the fiscal years required under the strategic plan.

(B) REPORT.—

(i) IN GENERAL.—The United States Trade Representative shall submit to the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives and the Committee on Finance and the Committee on Appropriations of the Senate a report that contains the plan required under subparagraph (A). Except as provided in clause (ii), the report required under this clause shall be submitted in conjunction with the strategic plan of the Office as required under section 306 of title 5, United States Code.

(ii) EXCEPTION.—The United States Trade Representative shall submit to the congressional committees specified in clause (i) an initial report that contains the plan required under subparagraph (A) not later than February 1, 2016.

**SEC. 908. UNITED STATES-ISRAEL TRADE AND COMMERCIAL ENHANCEMENT.**

(a) FINDINGS.—Congress finds the following:

(1) Israel is America's dependable, democratic ally in the Middle East—an area of paramount strategic importance to the United States.

(2) The United States-Israel Free Trade Agreement formed the modern foundation of the bilateral commercial relationship between the two countries and was the first such agreement signed by the United States with a foreign country.

(3) The United States-Israel Free Trade Agreement has been instrumental in expanding commerce and the strategic relationship between the United States and Israel.

(4) More than \$45 billion in goods and services is traded annually between the two countries in addition to roughly \$10 billion in United States foreign direct investment in Israel.

(5) The United States continues to look for and find new opportunities to enhance cooperation with Israel, including through the enactment of the United States-Israel Enhanced Security Cooperation Act of 2012 (Public Law 112–150) and the United States-Israel Strategic Partnership Act of 2014 (Public Law 113–296).

(6) It has been the policy of the United States Government to combat all elements of the Arab League Boycott of Israel by—

(A) public statements of Administration officials;

(B) enactment of relevant sections of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), including sections to ensure foreign persons comply with applicable reporting requirements relating to the boycott;

(C) enactment of the 1976 Tax Reform Act (Public Law 94–455) that denies certain tax benefits to entities abiding by the boycott;

(D) ensuring through free trade agreements with Bahrain and Oman that such countries no longer participate in the boycott; and

(E) ensuring as a condition of membership in the World Trade Organization that Saudi Arabia no longer enforces the secondary or tertiary elements of the boycott.

(b) STATEMENTS OF POLICY.—Congress—

(1) supports the strengthening of United States-Israel economic cooperation and recognizes the tremendous strategic, economic, and technological value of cooperation with Israel;

(2) recognizes the benefit of cooperation with Israel to United States companies, including by improving American competitiveness in global markets;

(3) recognizes the importance of trade and commercial relations to the pursuit and sustainability of peace, and supports efforts to bring together the United States, Israel, the Palestinian territories, and others in enhanced commerce;

(4) opposes politically motivated actions that penalize or otherwise limit commercial relations specifically with Israel such as boycotts, divestment or sanctions;

(5) notes that the boycott, divestment, and sanctioning of Israel by governments, governmental bodies, quasi-governmental bodies, international organizations, and other such entities is contrary to the General Agreement on Tariffs and Trade (GATT) principle of non-discrimination;

(6) encourages the inclusion of politically motivated actions that penalize or otherwise limit commercial relations specifi-

cally with Israel such as boycotts, divestment from, or sanctions against Israel as a topic of discussion at the U.S.-Israel Joint Economic Development Group (JEDG) and other areas to support the strengthening of the United States-Israel commercial relationship and combat any commercial discrimination against Israel;

(7) supports efforts to prevent investigations or prosecutions by governments or international organizations of United States persons on the sole basis of such persons doing business with Israel, with Israeli entities, or in Israeli-controlled territories; and

(8) supports American States examining a company's promotion or compliance with unsanctioned boycotts, divestment from, or sanctions against Israel as part of its consideration in awarding grants and contracts and supports the divestment of State assets from companies that support or promote actions to boycott, divest from, or sanction Israel.

(c) PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES.—

(1) COMMERCIAL PARTNERSHIPS.—Among the principal trade negotiating objectives of the United States for proposed trade agreements with foreign countries regarding commercial partnerships are the following:

(A) To discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel.

(B) To discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated non-tariff barriers on Israeli goods, services, or other commerce imposed on the State of Israel.

(C) To seek the elimination of state-sponsored unsanctioned foreign boycotts against Israel or compliance with the Arab League Boycott of Israel by prospective trading partners.

(2) EFFECTIVE DATE.—This subsection takes effect on the date of the enactment of this Act and applies with respect to negotiations commenced before, on, or after the date of the enactment of this Act.

(d) REPORT ON POLITICALLY MOTIVATED ACTS OF BOYCOTT, DIVESTMENT FROM, AND SANCTIONS AGAINST ISRAEL.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a report on politically motivated acts of boycott, divestment from, and sanctions against Israel.

(2) MATTERS TO BE INCLUDED.—The report required by paragraph (1) shall include the following:

(A) A description of the establishment of barriers to trade, including non-tariff barriers, investment, or commerce by foreign countries or international organizations against United States persons operating or doing business in Israel, with Israeli entities, or in Israeli-controlled territories.

(B) A description of specific steps being taken by the United States to encourage foreign countries and inter-

national organizations to cease creating such barriers and to dismantle measures already in place and an assessment of the effectiveness of such steps.

(C) A description of specific steps being taken by the United States to prevent investigations or prosecutions by governments or international organizations of United States persons on the sole basis of such persons doing business with Israel, with Israeli entities, or in Israeli-controlled territories.

(D) Decisions by foreign persons, including corporate entities and state-affiliated financial institutions, that limit or prohibit economic relations with Israel or persons doing business in Israel or in Israeli controlled territories.

(e) CERTAIN FOREIGN JUDGMENTS AGAINST UNITED STATES PERSONS.—Notwithstanding any other provision of law, no domestic court shall recognize or enforce any foreign judgment entered against a United States person that conducts business operations in Israel, or any territory controlled by Israel, if the domestic court determines that the foreign judgment is based, in whole or in part, on a determination by a foreign court that the United States person's conducting business operations therein or with Israeli entities constitutes a violation of law.

(f) DEFINITIONS.—In this section:

(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.

(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.

(3) FOREIGN COURT.—The term “foreign court” means a court, an administrative body, or other tribunal of a foreign country.

(4) FOREIGN JUDGMENT.—The term “foreign judgment” means a final civil judgment rendered by a foreign court.

(5) FOREIGN PERSON.—The term “foreign person” means—

(A) any natural person who is not lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) or who is not a protected individual (as defined in section 274B(a)(3) of such Act (8 U.S.C. 1324b(a)(3))); or

(B) any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as any international organization, foreign government and any agency or subdivision of foreign government, including a diplomatic mission.

(6) PERSON.—

(A) IN GENERAL.—The term “person” means—

(i) a natural person;

(ii) a corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) any successor to any entity described in clause (ii).

(B) APPLICATION TO GOVERNMENTAL ENTITIES.—The term “person” does not include a government or governmental entity that is not operating as a business enterprise.

(7) UNITED STATES PERSON.—The term “United States person” means—

(A) a natural person who is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))); or

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

**SEC. 909. ELIMINATION OF CONSUMPTIVE DEMAND EXCEPTION TO PROHIBITION ON IMPORTATION OF GOODS MADE WITH CONVICT LABOR, FORCED LABOR, OR INDENTURED LABOR; REPORT.**

(a) ELIMINATION OF CONSUMPTIVE DEMAND EXCEPTION.—

(1) IN GENERAL.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by striking “The provisions of this section” and all that follows through “of the United States.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 15 days after the date of the enactment of this Act.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Commissioner shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) that includes the following:

(1) The number of instances in which merchandise was denied entry pursuant to that section during the 1-year period preceding the submission of the report.

(2) A description of the merchandise denied entry pursuant to that section.

(3) Such other information as the Commissioner considers appropriate with respect to monitoring and enforcing compliance with that section.

**SEC. 910. CUSTOMS USER FEES.**

(a) IN GENERAL.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by adding at the end the following:

“(C) Fees may be charged under paragraphs (9) and (10) of subsection (a) during the period beginning on July 8, 2025, and ending on July 28, 2025.”

(b) **RATE FOR MERCHANDISE PROCESSING FEES.**—Section 503 of the United States–Korea Free Trade Agreement Implementation Act (Public Law 112–41; 125 Stat. 460) is amended—

(1) by striking “For the period” and inserting “(a) **IN GENERAL.**—For the period”; and

(2) by adding at the end the following:

“(b) **ADDITIONAL PERIOD.**—For the period beginning on July 1, 2025, and ending on July 14, 2025, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

“(1) in subparagraph (A), by substituting ‘0.3464’ for ‘0.21’; and

“(2) in subparagraph (B)(i), by substituting ‘0.3464’ for ‘0.21’.”.

**SEC. 911. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER PROTECTION AGREEMENTS.**

(a) **IN GENERAL.**—Not later than one year after entering into an agreement under a program specified in subsection (b), and annually thereafter until the termination of the program, the Commissioner shall submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a report that includes the following:

(1) A description of the development of the program.

(2) A description of the type of entity with which U.S. Customs and Border Protection entered into the agreement and the amount that entity reimbursed U.S. Customs and Border Protection under the agreement.

(3) An identification of the type of port of entry to which the agreement relates and an assessment of how the agreement provides economic benefits at the port of entry.

(4) A description of the services provided by U.S. Customs and Border Protection under the agreement during the year preceding the submission of the report.

(5) The amount of fees collected under the agreement during that year.

(6) A detailed accounting of how the fees collected under the agreement have been spent during that year.

(7) A summary of any complaints or criticism received by U.S. Customs and Border Protection during that year regarding the agreement.

(8) An assessment of the compliance of the entity described in paragraph (2) with the terms of the agreement.

(9) Recommendations with respect to how activities conducted pursuant to the agreement could function more effectively or better produce economic benefits.

(10) A summary of the benefits to and challenges faced by U.S. Customs and Border Protection and the entity described in paragraph (2) under the agreement.

(b) **PROGRAM SPECIFIED.**—A program specified in this subsection is—

(1) the program for entering into reimbursable fee agreements for the provision of U.S. Customs and Border Protection services established by section 560 of the Department of Home-

land Security Appropriations Act, 2013 (division D of Public Law 113–6; 127 Stat. 378); or

(2) the pilot program authorizing U.S. Customs and Border Protection to enter into partnerships with private sector and government entities at ports of entry established by section 559 of the Department of Homeland Security Appropriations Act, 2014 (division F of Public Law 113–76; 6 U.S.C. 211 note).

**SEC. 912. AMENDMENTS TO BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY ACT OF 2015.**

(a) IMMIGRATION LAWS OF THE UNITED STATES.—Section 102(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is amended—

(1) in paragraph (12), by striking “and” at the end;

(2) in paragraph (13), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(14) to ensure that trade agreements do not require changes to the immigration laws of the United States or obligate the United States to grant access or expand access to visas issued under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).”

(b) GLOBAL WARMING.—Section 102(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, as amended by subsection (a) of this section, is amended—

(1) in paragraph (13), by striking “and” at the end;

(2) in paragraph (14), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(15) to ensure that trade agreements do not require changes to U.S. law or obligate the United States with respect to global warming or climate change.”

(c) FISHERIES NEGOTIATIONS.—Section 102(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is amended by adding at the end the following:

“(22) FISHERIES NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in fish, seafood, and shellfish products are to obtain competitive opportunities for United States exports of fish, seafood, and shellfish products in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of fish, seafood, and shellfish products in United States markets and to achieve fairer and more open conditions of trade in fish, seafood, and shellfish products, including by reducing or eliminating tariff and non-tariff barriers and eliminating subsidies that distort trade.”

(d) ACCREDITATION.—Section 104(c)(2)(C) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is amended by inserting after the first sentence the following: “In addition, the chairman and ranking members described in subparagraphs (A)(i) and (B)(i) shall each be permitted to designate up to 3 personnel with proper security clearances to serve as delegates to such negotiations.”

(e) TRAFFICKING IN PERSONS.—Section 106(b)(6) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is amended—

- (1) by redesignating subparagraph (B) as subparagraph (C);  
and  
(2) by inserting after subparagraph (A) the following:

“(B) EXCEPTION.—

“(i) INVOKING EXCEPTION.—If the President submits to the appropriate congressional committees a letter stating that a country to which subparagraph (A) applies has taken concrete actions to implement the principal recommendations with respect to that country in the most recent annual report on trafficking in persons, this paragraph shall not apply with respect to agreements with that country.

“(ii) CONTENT OF LETTER; PUBLIC AVAILABILITY.—A letter submitted under clause (i) with respect to a country shall—

“(I) include a description of the concrete actions that the country has taken to implement the principal recommendations described in clause (i); and

“(II) be made available to the public.

“(iii) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subparagraph, the term ‘appropriate congressional committees’ means—

“(I) the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives; and

“(II) the Committee on Finance and the Committee on Foreign Relations of the Senate.”;

(f) TECHNICAL AMENDMENTS.—The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is amended—

(1) in section 105(b)(3)—

(A) in subparagraph (A)(ii), by striking “section 102(b)(16)” and inserting “section 102(b)(17)”; and

(B) in subparagraph (B)(ii), by striking “section 102(b)(16)” and inserting “section 102(b)(17)”; and

(2) in section 106(b)(5), by striking “section 102(b)(15)(C)” and inserting “section 102(b)(16)(C)”.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the 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.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Commissioner shall include in all distributions of collected antidumping and countervailing duties described in subsection (b) all interest earned on such duties, including—

(1) interest accrued under section 778 of the Tariff Act of 1930 (19 U.S.C. 1677g),

(2) interest accrued under section 505(d) of the Tariff Act of 1930 (19 U.S.C. 1505(d)), and

(3) common-law equitable interest, and all interest under section 963 of the Revised Statutes of the United States (19 U.S.C. 580), awarded by a court against a surety’s late payment of antidumping or countervailing duties and interest described in paragraph (1) or (2), under its bond,

which is, or was, realized through application of any payment received on or after October 1, 2014, by U.S. Customs and Border Protection under, or in connection with, any customs bond pursuant to a court order or judgment, or any settlement for any such bond.

(b) **DISTRIBUTIONS DESCRIBED.**—The distributions described in subsection (a) are all distributions made on or after the date of the enactment of this Act pursuant to section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c) (as such section was in effect on February 7, 2006) of collected antidumping and countervailing duties assessed on or after October 1, 2000, on entries made through September 30, 2007.

**SEC. 914. REPORT ON COMPETITIVENESS OF U.S. RECREATIONAL PERFORMANCE OUTERWEAR INDUSTRY.**

Not later than June 1, 2016, the United States International Trade Commission shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the competitiveness of the United States recreational performance outerwear industry and its effects on the United States economy, including an assessment of duty structures on inputs as well as finished products and global supply chains.

**SEC. 915. INCREASE IN PENALTY FOR FAILURE TO FILE RETURN OF TAX.**

(a) **IN GENERAL.**—Section 6651(a) of the Internal Revenue Code of 1986 is amended by striking “\$135” in the last sentence and inserting “\$205”.

(b) **CONFORMING AMENDMENT.**—Section 6651(i) of such Code is amended by striking “\$135” and inserting “\$205”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns required to be filed in calendar years after 2015.

PART B—TEXT OF THE MODIFICATION TO THE HOUSE AMENDMENT

Strike title VII and insert the following:

**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.**

(a) **MAJOR TRADING PARTNER REPORT.**—

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

(2) **ELEMENTS.**—

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

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

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

(II) that country's current account balance as a percentage of its gross domestic product;

(III) the change in that country's current account balance as a percentage of its gross domestic product during the 3-year period preceding the submission of the report;

(IV) that country's foreign exchange reserves as a percentage of its short-term debt; and

(V) that country's foreign exchange reserves as a percentage of its gross domestic product; and

(ii) an enhanced analysis of macroeconomic and exchange rate policies for each country that is a major trading partner of the United States that has—

(I) a significant bilateral trade surplus with the United States;

(II) a material current account surplus; and

(III) engaged in persistent one-sided intervention in the foreign exchange market.

(B) ENHANCED ANALYSIS.—Each enhanced analysis under subparagraph (A)(ii) shall include, for each country with respect to which an analysis is made under that subparagraph—

(i) a description of developments in the currency markets of that country, including, to the greatest extent feasible, developments with respect to currency interventions;

(ii) a description of trends in the real effective exchange rate of the currency of that country and in the degree of undervaluation of that currency;

(iii) an analysis of changes in the capital controls and trade restrictions of that country;

(iv) patterns in the reserve accumulation of that country; and

(v) an analysis of the macroeconomic policy mix of that country and its pattern of savings-investment imbalances.

(3) GUIDANCE.—The Secretary shall publicly issue guidance not later than 90 days after the date of enactment of the Act that describes the factors used to assess under paragraph (2)(A)(ii) whether a country has a significant bilateral trade surplus with the United States, has a material current account surplus, and has engaged in persistent one-sided intervention in the foreign exchange market.

(b) ENGAGEMENT ON EXCHANGE RATE AND ECONOMIC POLICIES.—

(1) IN GENERAL.—The President, through the Secretary, shall commence enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report submitted under subsection (a), in order to, as appropriate—

(A) urge implementation of policies to address the causes of the undervaluation of its currency, its bilateral trade surplus with the United States, and its material current

account surplus, including undervaluation and surpluses relating to exchange rate management;

(B) express the concern of the United States with respect to the adverse trade and economic effects of that undervaluation and those surpluses; and/or

(C) advise that country of the ability of the President to take action under subsection (c).

(2) WAIVER.—

(A) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(1) to commence enhanced bilateral engagement with a country if the Secretary determines that commencing enhanced bilateral engagement with the country—

(i) would have an adverse impact on the United States economy greater than the benefits of such action; or

(ii) would cause serious harm to the national security of the United States.

(B) CERTIFICATION.—The Secretary shall promptly certify to Congress a determination under subparagraph (A).

(c) REMEDIAL ACTION.—

(1) IN GENERAL.—If, on or after the date that is one year after the commencement of enhanced bilateral engagement by the President, through the Secretary, with respect to a country under subsection (b)(1), the Secretary determines that the country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A) with respect to that country, the President shall take one or more of the following actions:

(A) Prohibit the Overseas Private Investment Corporation from approving any new financing (including any insurance, reinsurance, or guarantee) with respect to a project located in that country on and after such date.

(B) Except as provided in paragraph (2), and pursuant to paragraph (3), prohibit the Federal Government from procuring, or entering into any contract for the procurement of, goods or services from that country on and after such date.

(C) Instruct the United States Executive Director of the International Monetary Fund to call for additional rigorous surveillance of the macroeconomic and exchange rate policies of that country and, as appropriate, formal consultations on findings of currency manipulation.

(D) Instruct the United States Trade Representative to take into account, in consultation with the Secretary, in assessing whether to enter into a bilateral or regional trade agreement with that country or to initiate or participate in negotiations with respect to a bilateral or regional trade agreement with that country, the extent to which that country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A).

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the requirement under paragraph (1) to take remedial action if the

President determines that taking remedial action under paragraph (1) would—

(i) have an adverse impact on the United States economy greater than the benefits of taking remedial action; or

(ii) would cause serious harm to the national security of the United States.

(B) CERTIFICATION.—The President shall promptly certify to Congress a determination under subparagraph (A).

(3) EXCEPTION.—The President may not apply a prohibition under paragraph (1)(B) in a manner that is inconsistent with United States obligations under international agreements.

(4) CONSULTATIONS.—

(A) OFFICE OF MANAGEMENT AND BUDGET.—Before applying a prohibition under paragraph (1)(B), the President shall consult with the Director of the Office of Management and Budget to determine whether such prohibition would subject the taxpayers of the United States to unreasonable cost.

(B) CONGRESS.—The President shall consult with the appropriate committees of Congress with respect to any action the President takes under paragraph (1)(B), including whether the President has consulted as required under subparagraph (A).

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate; and

(B) the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(2) COUNTRY.—The term “country” means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(3) REAL EFFECTIVE EXCHANGE RATE.—The term “real effective exchange rate” means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

**SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EXCHANGE RATE POLICY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Advisory Committee on International Exchange Rate Policy (in this section referred to as the “Committee”).

(2) DUTIES.—The Committee shall be responsible for advising the Secretary of the Treasury with respect to the impact of international exchange rates and financial policies on the economy of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of 9 members as follows, none of whom shall be employees of the Federal Government:

(A) Three members shall be appointed by the President pro tempore of the Senate, upon the recommendation of the chairmen and ranking members of the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the chairmen and ranking members of the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(C) Three members shall be appointed by the President.

(2) QUALIFICATIONS.—Members shall be selected under paragraph (1) on the basis of their objectivity and demonstrated expertise in finance, economics, or currency exchange.

(3) TERMS.—

(A) IN GENERAL.—Members shall be appointed for a term of 2 years or until the Committee terminates.

(B) REAPPOINTMENT.—A member may be reappointed to the Committee for additional terms.

(4) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) DURATION OF COMMITTEE.—

(1) IN GENERAL.—The Committee shall terminate on the date that is 2 years after the date of the enactment of this Act unless renewed by the President for a subsequent 2-year period.

(2) CONTINUED RENEWAL.—The President may continue to renew the Committee for successive 2-year periods by taking appropriate action to renew the Committee prior to the date on which the Committee would otherwise terminate.

(d) MEETINGS.—The Committee shall hold not less than 2 meetings each calendar year.

(e) CHAIRPERSON.—

(1) IN GENERAL.—The Committee shall elect from among its members a chairperson for a term of 2 years or until the Committee terminates.

(2) REELECTION; SUBSEQUENT TERMS.—A chairperson of the Committee may be reelected chairperson but is ineligible to serve consecutive terms as chairperson.

(f) STAFF.—The Secretary of the Treasury shall make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require to carry out the activities of the Committee.

(g) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) EXCEPTION.—Meetings of the Committee shall be exempt from the requirements of subsections (a) and (b) of section 10 and section 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is de-

terminated by the President or the Secretary of the Treasury that such meetings will be concerned with matters the disclosure of which—

(A) would seriously compromise the development by the Government of the United States of monetary or financial policy; or

(B) is likely to—

(i) lead to significant financial speculation in currencies, securities, or commodities; or

(ii) significantly endanger the stability of any financial institution.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury for each fiscal year in which the Committee is in effect \$1,000,000 to carry out this section.

