

112TH CONGRESS
2D SESSION

H. R. 6656

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2012

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

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Customs Enhanced Enforcement and Trade Facilitation
6 Act of 2012”.

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

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

TITLE I—CUSTOMS FACILITATION

Subtitle A—Functions Other Than Investigative Functions

- Sec. 101. Establishment of Agency; Commissioner.
- Sec. 102. Officers and employees.
- Sec. 103. Separate budget for U.S. Customs and Border Protection Agency.
- Sec. 104. Revolving fund.
- Sec. 105. Advances in foreign countries.
- Sec. 106. Advances for enforcement of customs provisions.
- Sec. 107. Certification of reason for advance.
- Sec. 108. Payments in foreign countries; claims for reimbursement.
- Sec. 109. Customs administration.
- Sec. 110. Designation of trade oversight personnel.
- Sec. 111. Consultation on trade and customs revenue functions.
- Sec. 112. Authorization of appropriations.

Subtitle B—Investigative Functions

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

Subtitle C—Joint Strategic Plan

- Sec. 131. Joint Strategic Plan.

TITLE II—CUSTOMS FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY

Subtitle A—Customs Facilitation and Transparency

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

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL RISK ASSESSMENT TARGETING

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

CHAPTER 2—IMPORTER REQUIREMENTS

- Sec. 221. Importer of record program.
- Sec. 222. Customs broker identification of importers.
- Sec. 223. Establishment of “new importer” program.
- Sec. 224. Requirements applicable to non-resident importers.
- Sec. 225. Certified importer program.

CHAPTER 3—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

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

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

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

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

Subtitle B—Other Matters

- Sec. 311. Definitions.
- Sec. 312. Allocation and training of personnel.
- Sec. 313. Regulations.
- Sec. 314. Annual report on prevention of evasion of antidumping and countervailing duty orders.
- Sec. 315. Government Accountability Office report on reliquidation authority.
- Sec. 316. Addressing circumvention by new shippers.

TITLE IV—MISCELLANEOUS PROVISIONS

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

TITLE V—OTHER TRADE AGENCIES

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE.**—The term “Commercial Customs

4 Operations Advisory Committee” means the Advisory Committee established pursuant to section 202

5 of this Act or any successor committee.

6

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

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

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

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

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

22 (i) representing the Department of
23 Homeland Security in interagency fora ad-
24 dressing such efforts; and

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

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

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

17 (G) soliciting and considering on a regular
18 basis input from the private sector, including
19 the Commercial Customs Operations Advisory
20 Committee, the Trade Support Network, and
21 other entities affected by the efforts of the Fed-
22 eral Government to facilitate legitimate inter-
23 national trade and to enforce the customs and
24 trade laws of the United States, with respect
25 to—

1 (i) the implementation of new or
2 amended customs and trade laws of the
3 United States; and

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

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

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

16 (A) The Tariff Act of 1930.

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

19 (C) Section 2 of the Act of March 4, 1923
20 (19 U.S.C. 6).

21 (D) Section 13031 of the Consolidated
22 Omnibus Budget Reconciliation Act of 1985
23 (19 U.S.C. 58c).

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

1 (F) Section 1 of the Act of June 26, 1930
2 (19 U.S.C. 68).

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

5 (H) Section 1 of the Act of March 2, 1911
6 (19 U.S.C. 198).

7 (I) The Trade Act of 1974.

8 (J) The Trade Agreements Act of 1979.

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

11 (L) The Uruguay Round Agreements Act.

12 (M) The Caribbean Basin Economic Re-
13 covery Act.

14 (N) The Andean Trade Preference Act.

15 (O) The African Growth and Opportunity
16 Act.

17 (P) The Act of March 3, 1927 (44 Stat.
18 1381, chapter 348; 19 U.S.C. 2071 et seq.).

19 (Q) The Customs Enforcement Act of
20 1986 (Public Law 99–570; 100 Stat. 3207–79).

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

23 (S) The Customs Procedural Reform and
24 Simplification Act of 1978 (Public Law 95–
25 410; 92 Stat. 888).

1 (T) The Trade Act of 2002 (Public Law
2 107–210; 116 Stat. 933).

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

5 (V) The Act of August 7, 1939 (53 Stat.
6 1263, chapter 566; 19 U.S.C. 2077 et seq.).

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

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

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

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

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

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

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

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

18 (7) JOINT STRATEGIC PLAN.—The term “Joint
19 Strategic Plan” means the plan required by section
20 131 of this Act.

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

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

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

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

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

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

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

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

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

24 “(3) report directly to the Secretary of Home-
25 land Security.

1 “(c) DUTIES.—

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

3 “(A) carry out the duties and powers pre-
4 scribed by law or by the Secretary of Homeland
5 Security;

6 “(B) direct the administration of the com-
7 mercial operations of the U.S. Customs and
8 Border Protection Agency and the enforcement
9 of the customs and trade laws of the United
10 States; and

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

14 “(2) DEFINITIONS.—In this subsection, the
15 terms ‘commercial operations’ and ‘customs and
16 trade laws of the United States’ have the meanings
17 given such terms in section 2 of the Customs En-
18 hanced Enforcement and Trade Facilitation Act of
19 2012.

20 “(d) ABSENCE OR DISABILITY OF COMMISSIONER.—

21 The Deputy Commissioner of U.S. Customs and Border
22 Protection, appointed pursuant to section 2, shall act as
23 Commissioner of U.S. Customs and Border Protection
24 during the absence or disability of the Commissioner of
25 U.S. Customs and Border Protection, or in the event that

1 there is no Commissioner of U.S. Customs and Border
2 Protection.”.

3 (b) ADMINISTRATIVE CONTINUITY.—

4 (1) IN GENERAL.—The Act of March 3, 1927
5 (44 Stat. 1381, chapter 348; 19 U.S.C. 2073), is
6 amended by striking section 3 and inserting the fol-
7 lowing:

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

10 “(a) IN GENERAL.—Effective on the date of the en-
11 actment of the Customs Enhanced Enforcement and
12 Trade Facilitation Act of 2012, the functions and associ-
13 ated personnel, assets, and liabilities, identified under sec-
14 tion 411 of the Homeland Security Act of 2002 (6 U.S.C.
15 211) on the day before such date of enactment, are trans-
16 ferred to the U.S. Customs and Border Protection Agency.

17 “(b) CONTINUATION IN OFFICE.—The individual
18 serving as Commissioner of Customs, in the Department
19 of Homeland Security, on the day before the date of the
20 enactment of the Customs Enhanced Enforcement and
21 Trade Facilitation Act of 2012 may serve as the Commis-
22 sioner of the U.S. Customs and Border Protection Agency
23 until the earlier of—

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

4 “(2) the date on which a person nominated by
5 the President to be the Commissioner of U.S. Cus-
6 toms and Border Protection is confirmed by the
7 Senate.”.

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

12 (c) REFERENCE.—On and after the effective date of
13 this Act, any reference in law or regulations to the “Com-
14 missioner of Customs” or the “Commissioner of the Cus-
15 toms Service” shall be deemed to be a reference to the
16 Commissioner of U.S. Customs and Border Protection es-
17 tablished pursuant to section 1 of the Act of March 3,
18 1927, as amended by subsection (a) of this section.

19 (d) COMPENSATION.—Section 5314 of title 5, United
20 States Code, is amended by striking “Commissioner of
21 Customs, Department of Homeland Security” and insert-
22 ing “Commissioner of U.S. Customs and Border Protec-
23 tion, Department of Homeland Security”.

1 **SEC. 102. OFFICERS AND EMPLOYEES.**

2 (a) DEPUTY COMMISSIONER.—Section 2 of the Act
3 of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
4 2072), is amended by striking subsection (a) and inserting
5 the following:

6 “(a) DEPUTY COMMISSIONER.—

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

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

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

19 “(A) overseeing the commercial operations
20 of the U.S. Customs and Border Protection
21 Agency, including the operations of the Office
22 of International Trade and all other offices of
23 the Agency whose duties primarily relate to the
24 commercial operations of the Agency;

25 “(B) resolving issues relating to the com-
26 mercial operations of the U.S. Customs and

1 Border Protection Agency, including liaising be-
2 tween offices primarily charged with carrying
3 out the commercial operations of the Agency
4 and any operational or port level office, includ-
5 ing the Office of Field Operations or any suc-
6 cessor office, in the administration of duties re-
7 lating to the commercial operations of the
8 Agency;

9 “(C) overseeing the development and im-
10 plementation information technology, research,
11 and communication functions of the U.S. Bor-
12 der and Protection Agency that affect the com-
13 mercial operations of the Agency, including
14 modernization strategies, that support the com-
15 mercial operations of the Agency, including the
16 implementation of the Automated Commercial
17 Environment computer system authorized under
18 section 13031(f)(5) of the Consolidated Omni-
19 bus Budget and Reconciliation Act of 1985 (19
20 U.S.C. 58c(f)(5));

21 “(D) overseeing the customs revenue func-
22 tions of the U.S. Customs and Border Protec-
23 tion Agency in consultation, as appropriate,
24 with the Deputy Assistant Secretary for Tax,

1 Trade, and Tariff Policy of the Department of
2 the Treasury or any successor position;

3 “(E) overseeing the administration of cus-
4 toms revenue functions of the U.S. Customs
5 and Border Protection Agency; and

6 “(F) consulting with the Committee on Fi-
7 nance of the Senate and the Committee on
8 Ways and Means of the House of Representa-
9 tives on a regular and timely basis regarding
10 the administration of the commercial operations
11 of the U.S. Customs and Border Protection
12 Agency, including—

13 “(i) the status and substance of inter-
14 national negotiations relating to the cus-
15 toms and trade laws of the United States,
16 or of foreign countries, in which personnel
17 of the Agency are participating;

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

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

24 “(iv) any legislative proposals that the
25 Agency or the Department of Homeland

1 Security provides to other committees of
2 the Senate or the House of Representatives
3 or individual members of such committees
4 that relate to the commercial operations of
5 the Agency; and

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

9 “(4) ABSENCE OR DISABILITY OF DEPUTY COM-
10 MISSIONER.—The Assistant Commissioner of the Of-
11 fice of International Trade shall act as the Deputy
12 Commissioner during the disability of the Deputy
13 Commissioner, or in the event that there is no Dep-
14 uty Commissioner.”.

15 (b) TRADE ADVOCATE.—Section 2 of the Act of
16 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
17 2072), as amended by subsection (a) of this section, is
18 further amended by striking subsection (b) and inserting
19 the following:

20 “(b) TRADE ADVOCATE.—

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

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

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

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

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

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

22 “(i) development and implementation
23 of rules, regulations, decisions, and notices
24 related to the customs and trade laws of

1 the United States administered by the
2 Agency;

3 “(ii) development of the Joint Stra-
4 tegic Plan required under section 131 of
5 the Customs Enhanced Enforcement and
6 Trade Facilitation Act of 2012;

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

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

22 “(D) advise the Commissioner with respect
23 to the consultations described in subparagraph
24 (C); and

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

3 (c) OTHER OFFICERS.—Section 2 of the Act of
4 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
5 2072), as amended by subsections (a) and (b) of this sec-
6 tion, is further amended by striking subsection (c) and in-
7 serting the following:

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

17 (d) OFFICE OF INTERNATIONAL TRADE.—Section
18 2(d) of the Act of March 3, 1927 (44 Stat. 1381, chapter
19 348; 19 U.S.C. 2072(d)), is amended—

20 (1) in paragraph (1), by striking “United
21 States Customs and Border Protection” and insert-
22 ing “U.S. Customs and Border Protection Agency”;
23 and

24 (2) in paragraph (2)—

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

3 (B) by striking subparagraph (A) and in-
4 serting the following:

5 “(A) OFFICE OF FIELD OPERATIONS.—

6 “(i) TRANSFER.—

7 “(I) IN GENERAL.—Not later
8 than 90 days after the date of enact-
9 ment of the Customs Enhanced En-
10 forcement and Trade Facilitation Act
11 of 2012, the Commissioner shall
12 transfer to the Office of International
13 Trade established pursuant to para-
14 graph (1) the assets, functions (other
15 than administrative functions), and
16 personnel described in subclause (II)
17 of the Office of Field Operations.

18 “(II) PERSONNEL DESCRIBED.—
19 The personnel of the Office of Field
20 Operations referred to in subclause (I)
21 are the following:

22 “(aa) Personnel having the
23 statutory authority to classify
24 and appraise goods entering the
25 United States.

1 “(bb) Personnel having the
2 responsibility to act as principal
3 point of contact and technical ex-
4 perts with respect to goods enter-
5 ing the United States, including
6 responsibilities relating to collec-
7 tion and deposit of duties, taxes,
8 and fees.

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

12 “(ii) ASSISTANT COMMISSIONER IN
13 THE OFFICE OF INTERNATIONAL TRADE.—
14 The assets, functions, and personnel trans-
15 ferred to the Office of International Trade
16 pursuant to clause (i) shall be under the
17 authority of the Assistant Commissioner in
18 the Office of International Trade.

19 “(iii) TRAINING.—Not later than 18
20 months after the date of the enactment of
21 the Customs Enhanced Enforcement and
22 Trade Facilitation Act of 2012, the Com-
23 missioner shall ensure that sufficient train-
24 ing with respect to facilitating legitimate
25 international trade and enforcing the cus-

1 toms and trade laws of the United States
2 has been provided to personnel transferred
3 to the Office of International Trade pursu-
4 ant to clause (i).

5 “(iv) LIMITATION ON FUNDS.—No
6 funds appropriated to the U.S. Customs
7 and Border Protection Agency may be
8 used to transfer the assets, functions, or
9 personnel of the Office of Field Operations
10 to an office other than the Office of Inter-
11 national Trade.”;

12 (C) by striking subparagraph (B);

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

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

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

23 (i) by striking “United States Cus-
24 toms and Border Protection” and inserting

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

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

6 (e) DEFINITIONS.—Section 2(f) of the Act of March
7 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072)
8 is amended to read as follows:

9 “(f) DEFINITIONS.—In this section—

10 “(1) the term ‘Commissioner’ means the Com-
11 missioner of U.S. Customs and Border Protection;
12 and

13 “(2) the terms ‘Commercial Customs Oper-
14 ations Advisory Committee’, ‘commercial operations’,
15 ‘customs and trade laws of the United States’, and
16 ‘Trade Support Network’ have the meaning given
17 such terms in section 2 of the Customs Enhanced
18 Enforcement and Trade Facilitation Act of 2012.”.

19 (f) UNITED STATES TRADE REPRESENTATIVE RE-
20 VIEW OF CUSTOMS REGULATIONS, INTERPRETATIONS,
21 AND PRACTICES.—The Act of March 3, 1927 (44 Stat.
22 1381, chapter 348; 19 U.S.C. 2071 et seq.), is amended
23 by inserting after section 3 the following:

1 **“SEC. 4. UNITED STATES TRADE REPRESENTATIVE REVIEW**
2 **OF CUSTOMS REGULATIONS, INTERPRETA-**
3 **TIONS, AND PRACTICES.**

4 “(a) REFERRAL.—The Commissioner of U.S. Cus-
5 toms and Border Protection shall consult with the United
6 States Representative with respect to any proposed change
7 to a regulation, interpretation, or practice of the Agency
8 relating to commercial operations of the Agency that im-
9 plicates compliance by the United States Government with
10 its international trade obligations.

11 “(b) DEFINITION.—In this section, the term ‘com-
12 mercial operations’ has the meaning given the term in sec-
13 tion 2 of the Customs Enhanced Enforcement and Trade
14 Facilitation Act of 2012.”.

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

18 “Deputy Commissioner of U.S. Customs and
19 Border Protection, Department of Homeland Secu-
20 rity.”.

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

23 (a) IN GENERAL.—The President shall include in
24 each budget transmitted to Congress under section 1105
25 of title 31, United States Code, a separate budget request

1 for the commercial operations of the U.S. Customs and
2 Border Protection Agency.

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

6 **SEC. 104. REVOLVING FUND.**

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

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

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

21 **SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS**
22 **PROVISIONS.**

23 Section 2 of the Act entitled “An Act to provide for
24 advances of funds by special disbursing agents in connec-
25 tion with the enforcement of Acts relating to narcotic

1 drugs”, approved March 28, 1928 (19 U.S.C. 2077), is
2 amended to read as follows:

3 **“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-**
4 **VISIONS.**

5 “The Commissioner of U.S. Customs and Border
6 Protection and the Director of U.S. Immigration and Cus-
7 toms Enforcement, with the approval of the Secretary of
8 Homeland Security and the Secretary of the Treasury, are
9 each authorized to direct the advance of funds by the Fis-
10 cal Service in the Department of the Treasury, in connec-
11 tion with the enforcement of the customs and trade laws
12 of the United States (as defined in section 2 of the Cus-
13 toms Enhanced Enforcement and Trade Facilitation Act
14 of 2012).”.

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

16 Section 3 of the Act of March 28, 1928 (19 U.S.C.
17 2078), is amended by striking “Commissioner of Cus-
18 toms” and inserting “Commissioner of U.S. Customs and
19 Border Protection or the Director of U.S. Immigration
20 and Customs Enforcement”.

21 **SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
22 **REIMBURSEMENT.**

23 Section 4 of the Act of August 7, 1939 (53 Stat.
24 1263, chapter 566; 19 U.S.C. 2079), is amended to read
25 as follows:

1 **“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
2 **REIMBURSEMENT.**

3 “The provisions of this Act shall not affect payments
4 made for the U.S. Customs and Border Protection Agency
5 or U.S. Immigration and Customs Enforcement in foreign
6 countries, or the right of any officer or employee of such
7 Agencies to claim reimbursement for personal funds ex-
8 pended in connection with the enforcement of the customs
9 and trade laws of the United States (as defined in section
10 2 of the Customs Enhanced Enforcement and Trade Fa-
11 cilitation Act of 2012).”.

12 **SEC. 109. CUSTOMS ADMINISTRATION.**

13 Section 113 of the Customs and Trade Act of 1990
14 (19 U.S.C. 2082) is amended to read as follows:

15 **“SEC. 113. CUSTOMS ADMINISTRATION.**

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

19 “(1) develop and implement accounting systems
20 that accurately determine and report the allocation
21 of the personnel and other resources of the U.S.
22 Customs and Border Protection Agency and U.S.
23 Immigration and Customs Enforcement among the
24 various operational functions of each Agency, includ-
25 ing merchandise processing and customs and trade
26 law enforcement; and

1 “(2) for fiscal year 2013 and each subsequent
2 fiscal year, develop and implement labor distribution
3 surveys of major workforce activities within the U.S.
4 Customs and Border Protection Agency and U.S.
5 Immigration and Customs Enforcement to determine
6 the cost of the various operational functions of each
7 Agency and the extent to which the costs of one
8 Agency are covered by the other Agency.

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

18 **SEC. 110. DESIGNATION OF TRADE OVERSIGHT PER-**
19 **SONNEL.**

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

23 “(c) DESIGNATION OF TRADE OVERSIGHT PER-
24 SONNEL.—Not later than 90 days after the date of the
25 enactment of the Customs Enhanced Enforcement and

1 Trade Facilitation Act of 2012, the Secretary of the
 2 Treasury shall designate and dedicate not less than 5 full-
 3 time equivalent personnel to work exclusively with the
 4 Deputy Assistant Secretary of the Treasury for Tax,
 5 Trade, and Tariff Policy in the performance and oversight
 6 of customs revenue functions.”.

7 **SEC. 111. CONSULTATION ON TRADE AND CUSTOMS REV-**
 8 **ENUE FUNCTIONS.**

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

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

16 (2) in paragraph (2)(A), by striking “not later
 17 than 30 days prior to the finalization of” and insert-
 18 ing “not later than 60 days before proposing, and
 19 not later than 60 days before finalizing,”.

20 **SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—Section 301 of the Customs Pro-
 22 cedural Reform and Simplification Act of 1978 (19 U.S.C.
 23 2075) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (1)—

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

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

8 (B) by striking paragraph (2) and insert-
9 ing the following:

10 “(2) REQUIREMENT FOR AUTHORIZATION.—

11 The authorization of the appropriations for the U.S.
12 Customs and Border Protection Agency for each fis-
13 cal year after fiscal year 2012 shall specify the
14 amount authorized for the fiscal year for the salaries
15 and expenses of the Agency in conducting commer-
16 cial operations.”; and

17 (C) by striking paragraph (3);

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

20 “(b) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There are authorized to be
22 appropriated for the salaries and expenses of the
23 U.S. Customs and Border Protection Agency that
24 are incurred in commercial operations—

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

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

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

7 “(2) CUSTOMS USER FEE ACCOUNT.—The mon-
8 ies authorized to be appropriated pursuant to para-
9 graph (1) for any fiscal year, except for such sums
10 as may be necessary for the salaries and expenses of
11 the U.S. Customs and Border Protection Agency
12 that are incurred in connection with the processing
13 of merchandise that is exempt from the fees imposed
14 pursuant to section 13031(a) (9) and (10) of the
15 Consolidated Omnibus Budget Reconciliation Act of
16 1985 (19 U.S.C. 58c(a) (9) and (10)), shall be ap-
17 propriated from the Customs User Fee Account.

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

23 “(d) OVERTIME PAY LIMITATIONS; WAIVER.—No
24 part of the funds appropriated pursuant to subsection (a)
25 for any fiscal year may be used for administrative ex-

1 penses to pay any customs officer overtime pay in an
2 amount exceeding \$35,000 unless the Secretary of Home-
3 land Security determines on an individual basis that pay-
4 ment of overtime pay to such officer in an amount exceed-
5 ing \$35,000 is necessary for national security purposes,
6 to prevent excessive costs, or to meet emergency require-
7 ments of the Agency.”;

8 (3) in subsection (e)—

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

11 (B) by striking “Department of the Treas-
12 ury for salaries of the United States Customs
13 Service” and inserting “Department of Home-
14 land Security for salaries of the U.S. Customs
15 and Border Protection Agency”; and

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

21 (4) by striking subsections (f) and (g) and in-
22 serting the following:

23 “(f) USE OF SAVINGS RESULTING FROM ADMINIS-
24 TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-
25 penses result from the consolidation of administrative

1 functions within the U.S. Customs and Border Protection
2 Agency, the Commissioner of U.S. Customs and Border
3 Protection shall apply the savings, to the extent the sav-
4 ings are not needed to meet emergency requirements of
5 the Agency, to strengthening the commercial operations
6 of the Agency by increasing the number of personnel dedi-
7 cated to administering such commercial operations.

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

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

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

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

23 “(4) eliminate any United States port of entry;
24 or

1 “(5) significantly reduce the number of employ-
2 ees assigned to any office or any function of the
3 U.S. Customs and Border Protection Agency.”; and
4 (5) by adding at the end the following:

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

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

15 (c) CONFORMING AMENDMENT.—Subsection (c) of
16 section 5 of the Act of February 13, 1911 (19 U.S.C.
17 267(c)), is amended to read as follows:

18 “(c) LIMITATIONS.—

19 “(1) FISCAL YEAR CAP.—The aggregate of
20 overtime pay under subsection (a) of this section (in-
21 cluding commuting compensation under subsection
22 (a)(2)(B) of this section) and premium pay under
23 subsection (b) of this section that a customs officer
24 may be paid in any fiscal year may not exceed
25 \$35,000 unless the Secretary of Homeland Security

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

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

12 **Subtitle B—Investigative Functions**

13 **SEC. 121. SEPARATE BUDGET FOR U.S. IMMIGRATION AND** 14 **CUSTOMS ENFORCEMENT.**

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

20 **SEC. 122. AUTHORIZATION OF APPROPRIATIONS.**

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

1 **“SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CER-**
2 **TAIN CUSTOMS ENFORCEMENT ACTIVITIES.**

3 “(a) IN GENERAL.—

4 “(1) FISCAL YEARS BEGINNING ON OR AFTER
5 OCTOBER 1, 2012.—For the fiscal year beginning Oc-
6 tober 1, 2012, and each fiscal year thereafter, there
7 are authorized to be appropriated to the U.S. Immi-
8 gration and Customs Enforcement of the Depart-
9 ment of Homeland Security for the enforcement of
10 the customs and trade laws of the United States
11 only such sums as may be authorized by law.

12 “(2) SPECIFICATION OF AMOUNTS.—The au-
13 thorization of the appropriations for the U.S. Immi-
14 gration and Customs Enforcement for each fiscal
15 year after fiscal year 2012 shall specify the amount
16 authorized for the fiscal year for the salaries and ex-
17 penses of U.S. Immigration and Customs Enforce-
18 ment for the enforcement of the customs and trade
19 laws of the United States.

20 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated for the salaries and ex-
22 penses of the U.S. Immigration and Customs Enforcement
23 that are incurred in enforcement of the customs and trade
24 laws of the United States—

25 “(1) not less than \$86,000,000 for fiscal year
26 2013;

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

3 “(3) not less than \$90,200,000 for fiscal year
4 2015.

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

9 **Subtitle C—Joint Strategic Plan**

10 **SEC. 131. JOINT STRATEGIC PLAN.**

11 (a) IN GENERAL.—Not later than June 30, 2013,
12 and every 2 years thereafter, the Commissioner of U.S.
13 Customs and Border Protection and the Director of U.S.
14 Immigration and Customs Enforcement shall jointly de-
15 velop and submit to the Committee on Finance of the Sen-
16 ate and the Committee on Ways and Means of the House
17 of Representatives, a Joint Strategic Plan.

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

23 (1) a summary of actions taken to date to bet-
24 ter enforce the customs and trade laws of the United
25 States and to better facilitate the international trade

1 of the United States, including a description and
2 analysis of specific performance measures to evalu-
3 ate the progress of the U.S. Customs and Border
4 Protection Agency and U.S. Immigration and Cus-
5 toms Enforcement in meeting each such responsi-
6 bility;

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

11 (3) a specific identification of the priority trade
12 issues described in paragraph (3)(B)(ii) of section
13 2(d) of the Act of March 3, 1927 (44 Stat. 1381,
14 chapter 348; 19 U.S.C. 2072(d)), as added by sec-
15 tion 211(a) of this Act;

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

24 (5) a description of the training that has oc-
25 curred to date within the U.S. Customs and Border

1 Protection Agency and U.S. Immigration and Cus-
2 toms Enforcement to improve such enforcement and
3 facilitation, including training under section 217 of
4 this Act;

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

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

11 (c) CONSULTATIONS.—

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

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

- 17 (i) the Department of the Treasury;
18 (ii) the Department of Agriculture;
19 (iii) the Department of Commerce;
20 (iv) the Department of Justice;
21 (v) the Department of the Interior;
22 (vi) the Department of Health and
23 Human Services;
24 (vii) the Food and Drug Administra-
25 tion;

1 (viii) the Consumer Product Safety
2 Commission; and

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

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

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

12 (A) appropriate officials from relevant for-
13 eign law enforcement agencies and international
14 organizations, including the World Customs Or-
15 ganization; and

16 (B) interested parties in the private sector,
17 including domestic producers.

1 **TITLE II—CUSTOMS FACILITA-**
2 **TION, TRADE ENFORCEMENT,**
3 **AND TRANSPARENCY**

4 **Subtitle A—Customs Facilitation**
5 **and Transparency**

6 **SEC. 201. CONSULTATIONS WITH RESPECT TO MUTUAL**
7 **RECOGNITION AGREEMENTS.**

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

13 (1) consult, not later than 30 days before initi-
14 ating negotiations to enter into any such agreement,
15 with the Committee on Finance of the Senate and
16 the Committee on Ways and Means of the House of
17 Representatives; and

18 (2) consult, not later than 30 days before enter-
19 ing into any such agreement, with the Committee on
20 Finance of the Senate and the Committee on Ways
21 and Means of the House of Representatives.

22 **SEC. 202. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**
23 **COMMITTEE.**

24 (a) ESTABLISHMENT.—Not later than 60 days after
25 the date of enactment of this Act, the Secretary of the

1 Treasury and the Secretary of Homeland Security shall
2 jointly establish a Commercial Customs Operations Advi-
3 sory Committee (in this section referred to as the “Advi-
4 sory Committee”).

5 (b) MEMBERSHIP.—

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

8 (A) 20 individuals appointed under para-
9 graph (2);

10 (B) the Assistant Secretary for Tax Policy
11 of the Department of the Treasury and the As-
12 sistant Secretary of Policy and Planning of the
13 Department of Homeland Security, who shall
14 jointly co-chair meetings of the Advisory Com-
15 mittee; and

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

21 (2) APPOINTMENT.—

22 (A) IN GENERAL.—The Secretary of the
23 Treasury and the Secretary of Homeland Secu-
24 rity shall jointly appoint 20 individuals from
25 the private sector to the Advisory Committee.

1 (B) REQUIREMENTS.—In making appoint-
2 ments under subparagraph (A), the Secretary
3 of the Treasury and the Secretary of Homeland
4 Security shall appoint members—

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

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

13 (iii) to ensure that domestic manufac-
14 turing parties are represented.

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

17 (1) advise the Secretary of the Treasury and
18 the Secretary of Homeland Security on matters in-
19 volving the commercial operations of the U.S. Cus-
20 toms and Border Protection Agency and U.S. Immi-
21 gration and Customs Enforcement, including advis-
22 ing with respect to significant changes that are pro-
23 posed with respect to agency regulations, policies, or
24 practices;

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

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

13 (d) MEETINGS.—The Advisory Committee shall meet
14 at the call of the Secretary of the Treasury and the Sec-
15 retary of Homeland Security.

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

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

23 (2) sets forth any recommendations of the Advi-
24 sory Committee regarding the commercial operations

1 of the U.S. Customs and Border Protection Agency
2 and U.S. Immigration and Customs Enforcement.

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

7 (g) CONFORMING AMENDMENT.—

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

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

1 **SEC. 203. AUTOMATED COMMERCIAL ENVIRONMENT COM-**
2 **PUTER SYSTEM.**

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

6 (1) in subparagraph (A)—

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

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

11 (2) in subparagraph (B)—

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

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

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

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

22 “(3) REPORT.—

23 “(A) IN GENERAL.—Not later than De-
24 cember 31, 2012, the Commissioner of U.S.
25 Customs and Border Protection shall submit to
26 the Committee on Appropriations and the Com-

1 mittee on Finance of the Senate and the Com-
2 mittee on Appropriations and the Committee on
3 Ways and Means of the House of Representa-
4 tives a report specifying—

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

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

21 “(iii) the Agency’s objectives, plans,
22 and deadlines for implementing the prior-
23 ities identified under clause (ii) not later
24 than September 30, 2015.

1 “(B) UPDATE OF REPORTS.—Not later
2 than December 31, 2014, and September 30,
3 2015, the Commissioner shall submit to the
4 Committee on Appropriations and the Com-
5 mittee on Finance of the Senate and the Com-
6 mittee on Appropriations and the Committee on
7 Ways and Means of the House of Representa-
8 tives an updated report addressing each of the
9 matters referred to in subparagraph (A).”.

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

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

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

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

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

10 Section 411(d) of the Tariff Act of 1930 (19 U.S.C.
11 411(d)) is amended—

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

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

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

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

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

7 “(A) develop and maintain the necessary
8 information technology infrastructure to sup-
9 port the operation of the ITDS;

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

17 “(C) not later than March 31, 2013, iden-
18 tify and transmit to the Commissioner of U.S.
19 Customs and Border Protection the admissi-
20 bility criteria and data elements required by the
21 agency to authorize the release of cargo by the
22 U.S. Customs and Border Protection Agency
23 for incorporation into the operational
24 functionality of the Automated Commercial En-
25 vironment computer system.”;

(4) in paragraph (5), as redesignated, by striking “each fiscal year” and inserting “each of the fiscal years 2010 through 2013”; and

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

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL RISK

ASSESSMENT TARGETING

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

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

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

“(A) ESTABLISHMENT OF COMMERCIAL TARGETING DIVISION.—

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

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

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

8 “(II) individual National Tar-
9 geting and Analysis Groups, each led
10 by a Director who shall report to the
11 Executive Director of the Commercial
12 Targeting Division.

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

15 “(I) to the development and con-
16 duct of commercial risk assessment
17 targeting with respect to cargo des-
18 tined for the United States in accord-
19 ance with subparagraph (C); and

20 “(II) to issuing Trade Alerts de-
21 scribed in subparagraph (D).

22 “(B) NATIONAL TARGETING AND ANALYSIS
23 GROUPS.—

24 “(i) IN GENERAL.—A National Tar-
25 geting and Analysis Group referred to in

1 subparagraph (A)(ii)(II) shall, at a min-
2 imum, be established for each priority
3 trade issue described in clause (ii).

4 “(ii) PRIORITY TRADE ISSUES.—

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

8 “(aa) Agriculture programs.

9 “(bb) Antidumping and
10 countervailing duties.

11 “(cc) Import safety.

12 “(dd) Intellectual property
13 rights.

14 “(ee) Penalties.

15 “(ff) Revenue.

16 “(gg) Textiles.

17 “(hh) Trade agreements.

18 “(II) MODIFICATION.—The Com-
19 missioner is authorized to establish
20 new priority trade issues and elimi-
21 nate, consolidate, or otherwise modify
22 the priority trade issues described in
23 this paragraph if the Commissioner—

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

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

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

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

21 “(II) facilitating, promoting, and
22 coordinating cooperation and the ex-
23 change of information between the
24 U.S. Customs and Border Protection
25 Agency, U.S. Immigration and Cus-

1 toms Enforcement, and other relevant
2 Federal departments and agencies re-
3 garding the Group’s priority trade
4 issue; and

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

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

21 “(bb) obtaining information
22 from the appropriate U.S. Cus-
23 toms and Border Protection
24 Agency office on the status of
25 any activities resulting from the

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

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

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

24 “(i) establish targeted risk assessment
25 methodologies and standards—

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

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

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

22 “(D) TRADE ALERTS.—

23 “(i) ISSUANCE.—Based upon the ap-
24 plication of the targeted risk assessment
25 methodologies and standards established

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

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

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

22 “(II) notifies the Assistant Com-
23 missioner of the Office of Field Oper-
24 ations of the U.S. Customs and Bor-
25 der Protection Agency of the deter-

mination and the reasons for the determination not later than 48 hours after making the determination.

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

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

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

“(iv) INSPECTION DEFINED.—In this subparagraph, the term ‘inspection’ means the comprehensive evaluation process used by the U.S. Customs and Border Protection Agency, other than physical examination or testing, to permit the entry of mer-

1 chandise into the United States, or the
2 clearance of merchandise for transpor-
3 tation in bond through the United States,
4 for purposes of—

5 “(I) assessing duties;

6 “(II) identifying restricted or
7 prohibited items; and

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

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

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

21 (2) in paragraph(3)—

22 (A) by striking subparagraph (F); and

23 (B) by redesignating subparagraphs (G)
24 through (L) as subparagraphs (F) through (K).

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

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

6 “(4) CENTERS OF EXCELLENCE AND EXPERTISE.—
7

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

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

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

21 “(i) to facilitating legitimate trade
22 through increasing specific industry knowl-
23 edge and uniformity of cargo clearance
24 procedures;

25 “(ii) to improving enforcement efforts
26 of priority trade issues described in para-

graph (3)(B)(ii) in specific industry sectors through application of targeting information from the Commercial Targeting Division established under paragraph (3)(A) and from other means of verifications;

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

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

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

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

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

(a) CONTENTS OF REPORT.—The Inspector General of the Department of Homeland Security shall, at the times specified in subsection (b), submit to the Committee

1 on Finance of the Senate and the Committee on Ways and
2 Means of the House of Representatives a report assessing
3 the following, with respect to the 2 fiscal year period to
4 which the report applies:

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

8 (A) the collection of countervailing and
9 antidumping duties;

10 (B) the assessment and collection of com-
11 mercial fines and penalties; and

12 (C) the adequacy of the policies of the
13 Agency with respect to monitoring and tracking
14 of merchandise transported in bond and col-
15 lecting duties, as appropriate.

16 (2) The effectiveness of actions taken by the
17 U.S. Customs and Border Protection Agency to
18 measure accountability and performance with re-
19 spect to revenue protection.

20 (3) The number and outcome of investigations
21 instituted by the U.S. Customs and Border Protec-
22 tion Agency with respect to the underpayment of du-
23 ties.

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

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

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

12 (a) IN GENERAL.—Not later than December 31 of
13 2013, 2014, and 2015 the Secretary of Homeland Secu-
14 rity and the Secretary of the Treasury shall jointly submit
15 to the Committee on Finance of the Senate and the Com-
16 mittee on Ways and Means of the House of Representa-
17 tives a report on efforts undertaken by the U.S. Customs
18 and Border Protection Agency to ensure the secure trans-
19 portation of merchandise in bond through the United
20 States and the collection of revenue owed upon the entry
21 of such merchandise into the United States for consump-
22 tion.

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

1 (1) the overall number of entries of merchan-
2 dise for transportation in bond through the United
3 States;

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

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

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

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

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

24 (7) the number of entries that remain
25 unreconciled.

1 **SEC. 215. REPORT ON EFFECTIVENESS OF TRADE EN-**
2 **FORCEMENT ACTIVITIES.**

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

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

11 (1) a description of the use of resources, results
12 of audits and verifications, targeting, organization,
13 and training of the U.S. Customs and Border Pro-
14 tection Agency; and

15 (2) a description of trade enforcement activities
16 to address undervaluation, transshipment, legitimacy
17 of entities making entry, protection of revenues,
18 fraud prevention and detection, and penalties, in-
19 cluding intentional misclassification, inadequate
20 bonding, and other misrepresentations.

21 **SEC. 216. PRIORITIES AND PERFORMANCE STANDARDS**
22 **FOR CUSTOMS MODERNIZATION, TRADE FA-**
23 **CILITATION, AND TRADE ENFORCEMENT**
24 **FUNCTIONS AND PROGRAMS.**

25 (a) PRIORITIES AND PERFORMANCE STANDARDS.—

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

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

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

18 (1) The Automated Commercial Environment
19 computer system authorized under section
20 13031(f)(5) of the Consolidated Omnibus Budget
21 and Reconciliation Act of 1985 (19 U.S.C.
22 58c(f)(5)).

23 (2) Each of the priority trade issues described
24 in paragraph (3)(B)(ii) of section 2(d) of the Act of
25 March 3, 1927 (44 Stat. 1381, chapter 348; 19

1 U.S.C. 2072(d)), as added by section 211(a) of this
2 Act.

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

5 (4) Drawback for exported merchandise under
6 section 313 of the Tariff Act of 1930 (19 U.S.C.
7 1313), as amended by section 404 of this Act.

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

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

15 (7) The expedited clearance of cargo.

16 (8) The issuance of regulations and rulings.

17 (9) The issuance of Regulatory Audit Reports.

18 (c) SUBMISSION TO CONGRESS.—

19 (1) IN GENERAL.—The Commissioner of U.S.
20 Customs and Border Protection shall submit to the
21 Committee on Ways and Means of the House of
22 Representatives and the Committee on Finance of
23 the Senate a description of the priorities and per-
24 formance standards referred to in subsection (a) not

1 later than 180 days after the date of enactment of
2 this Act.

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

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

17 **SEC. 217. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**
18 **TO CLASSIFY AND APPRAISE IMPORTED AR-**
19 **TICLES AND TO IMPROVE TRADE ENFORCE-**
20 **MENT EFFORTS.**

21 (a) IN GENERAL.—

22 (1) ESTABLISHMENT.—The Commissioner of
23 U.S. Customs and Border Protection and the Direc-
24 tor of U.S. Immigration and Customs Enforcement

1 shall establish and carry out on a fiscal year basis
2 educational seminars to—

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

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

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

16 (b) CONTENT.—

17 (1) CLASSIFYING AND APPRAISING IMPORTED
18 ARTICLES.—In carrying out subsection (a)(1)(A),
19 the Commissioner, the Director, and interested par-
20 ties in the private sector selected under subsection
21 (c) shall provide instruction and related instructional
22 materials at each educational seminar under this
23 section to U.S. Customs and Border Protection
24 Agency personnel and, as appropriate, to U.S. Immi-

1 gration and Customs Enforcement Agency personnel
2 on the following:

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

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

14 (C) Customs valuation.

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

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

1 Enforcement Agency personnel to identify opportuni-
2 ties to enhance enforcement of the following:

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

9 (B) Addressing evasion of duties on im-
10 ports of textiles.

11 (C) Protection of intellectual property
12 rights.

13 (D) Enforcement of child labor laws.

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

19 (c) SELECTION PROCESS.—

20 (1) IN GENERAL.—The Commissioner shall es-
21 tablish a process to solicit, evaluate, and select inter-
22 ested parties in the private sector for purposes of as-
23 sisting in providing instruction and related instruc-
24 tional materials described in subsection (b) at each
25 educational seminar under this section.

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

5 (A) availability and usefulness;

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

9 (C) other appropriate criteria established
10 by the Commissioner.

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

15 (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-
16 TERVAILING ORDERS.—

17 (1) IN GENERAL.—The Commissioner shall give
18 due consideration to carrying out an educational
19 seminar under this section in whole or in part to im-
20 prove the ability of U.S. Customs and Border Pro-
21 tection Agency personnel to enforce a countervailing
22 or antidumping duty order issued under section 706
23 or 736 of the Tariff Act of 1930 (19 U.S.C. 1671e
24 or 1673e) upon the request of a petitioner in an ac-

1 tion underlying such countervailing or antidumping
2 duty order.

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

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

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

17 (g) DEFINITIONS.—In this section:

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

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

24 (3) UNITED STATES.—The term “United
25 States” means the customs territory of the United

1 States, as defined in General Note 2 to the Har-
2 monized Tariff Schedule of the United States.

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

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

16 **CHAPTER 2—IMPORTER REQUIREMENTS**

17 **SEC. 221. IMPORTER OF RECORD PROGRAM.**

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

23 (b) REQUIREMENTS.—The Secretary of Homeland
24 Security shall ensure that, as part of the importer of

1 record program, the U.S. Customs and Border Protection
2 Agency—

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

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

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

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

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

23 (3) maintains a centralized database of im-
24 porter of record numbers, including a history of im-
25 porter of record numbers associated with each im-

1 porter, and the information described in subpara-
2 graphs (A), (B), and (C) of paragraph (1);

3 (4) evaluates the accuracy of the database; and

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

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

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

17 **SEC. 222. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**
18 **ERS.**

19 (a) IN GENERAL.—Section 641 of the Tariff Act of
20 1930 (19 U.S.C. 1641) is amended by adding at the end
21 the following:

22 “(i) IDENTIFICATION OF IMPORTERS.—

23 “(1) IN GENERAL.—The Secretary shall pre-
24 scribe regulations setting forth the minimum stand-
25 ards for customs brokers and importers, including

1 nonresident importers, regarding the identity of the
2 importer that shall apply in connection with the im-
3 portation of merchandise into the United States.

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

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

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

17 “(3) PENALTIES.—Any customs broker who
18 fails to collect information required under the regu-
19 lations prescribed under this subsection shall be lia-
20 ble to the United States, at the discretion of the
21 Secretary, for a monetary penalty not to exceed
22 \$10,000 for each violation of those regulations and
23 subject to revocation or suspension of a license or
24 permit of the customs broker pursuant to the proce-
25 dures set forth in subsection (d).

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

6 (b) STUDY AND REPORT REQUIRED.—Not later than
7 180 days after the date of enactment of this Act, the Com-
8 missioner of U.S. Customs and Border Protection shall
9 submit to Congress a report containing recommendations
10 for—

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

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

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

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

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

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

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

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

20 (2) develops procedures to ensure increased
21 oversight of imported products of new importers re-
22 lating to the enforcement of the priority trade issues
23 described in paragraph (3)(B)(ii) of section 2(d) of
24 the Act of March 3, 1927 (44 Stat. 1381, chapter
25 348; 19 U.S.C. 2072(d)), as added by section 211(a)
26 of this Act;

1 (3) develops procedures to ensure increased
2 oversight of imported products of new importers by
3 Centers of Excellence and Expertise established
4 under section 212; and

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

9 **SEC. 224. REQUIREMENTS APPLICABLE TO NON-RESIDENT**
10 **IMPORTERS.**

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

14 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**
15 **DENT IMPORTERS.**

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

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

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

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

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

20 “(4) The Commissioner of U.S. Customs and
21 Border Protection shall require the non-resident im-
22 porter to establish a power of attorney with the resi-
23 dent agent in connection with the importation of
24 merchandise.

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

7 “(d) PENALTIES.—

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

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

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

23 “(4) DEFINITION.—In this subsection, the term
24 ‘customs and trade laws of the United States’ has
25 the meaning given such term in section 2 of the

1 Customs Enhanced Enforcement and Trade Facilita-
2 tion Act of 2012.”.

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

10 **SEC. 225. CERTIFIED IMPORTER PROGRAM.**

11 (a) INTERAGENCY COMMITTEE.—

12 (1) ESTABLISHMENT AND MEMBERSHIP.—

13 There is established an interagency committee com-
14 posed of representatives of each covered Federal
15 agency.

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

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

20 (1) not later than December 30, 2014, and in
21 consultation with interested parties in the private
22 sector, establish a certified importer program as de-
23 scribed in (c); and

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

4 (c) CERTIFIED IMPORTER PROGRAM.—

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

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

20 (d) DEFINITIONS.—In this section:

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

23 (A)(i) is a validated Tier 2 or Tier 3 par-
24 ticipant in the Customs-Trade Partnership
25 Against Terrorism program established under

1 subtitle B of title II of the SAFE Port Act (6
2 U.S.C. 961 et seq.); and

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

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

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

19 (e) REPORT.—

20 (1) IN GENERAL.—Not later than March 31,
21 2014, the Commissioner of U.S. Customs and Bor-
22 der Protection shall submit to the Committee on Fi-
23 nance of the Senate and the Committee on Ways
24 and Means of the House of Representatives a report
25 assessing the progress in establishing the certified

1 importer program as described in subsection (c) and
 2 coordination among the Commissioner and the heads
 3 of each covered Federal agency in facilitating the
 4 implementation of the certified importer program.

5 (2) UPDATE.—Not later than December 31,
 6 2015, the Commissioner of U.S. Customs and Bor-
 7 der Protection shall submit to the Committee on Fi-
 8 nance of the Senate and the Committee on Ways
 9 and Means of the House of Representatives an up-
 10 date of the report required under paragraph (1).

11 **CHAPTER 3—IMPORT-RELATED PROTEC-**
 12 **TION OF INTELLECTUAL PROPERTY**
 13 **RIGHTS**

14 **SEC. 231. EXCHANGE OF INFORMATION RELATED TO**
 15 **TRADE ENFORCEMENT.**

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

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

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

22 **“(1) SHARING OF INFORMATION AND SAM-**
 23 **PLES.—**Notwithstanding any other provision of law,
 24 the Secretary is authorized, at the time that mer-
 25 chandise is presented for examination and there-

1 after, to provide to the owner of a copyright or a
2 registered mark, with notification to the importer of
3 record—

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

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

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

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

22 “(2) NONDISCLOSURE.—

23 “(A) IN GENERAL.—Any owner of a copy-
24 right or a registered mark to whom informa-
25 tion, a sample, an image, or material described

1 in subparagraph (A), (B), or (C) of paragraph
2 (1) is provided under paragraph (1) may not
3 disclose it to any other person or use it for a
4 purpose other than the purpose described in
5 paragraph (1).

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

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

23 “(3) BONDING REQUIREMENTS.—The Secretary
24 may impose bonding requirements on the owner of
25 the copyright or registered mark as a condition of

1 disclosure of information and the provision of sam-
2 ples under this subsection.

3 “(4) IMPLEMENTATION.—

4 “(A) REGULATIONS.—Not later than the
5 90th day after the date of the enactment of this
6 section, the Secretary shall promulgate revised
7 regulations to carry out this subsection. Until
8 such time as the Secretary promulgates the re-
9 vised regulations, and notwithstanding section
10 818(g)(2) of the National Defense Authoriza-
11 tion Act of 2012 (10 U.S.C. 2302 note; Public
12 Law 112–81), those regulations in effect on the
13 date of the enactment of this section imple-
14 menting section 818(g)(1) of the National De-
15 fense Authorization Act of 2012 shall be in ef-
16 fect, except to the extent such regulations limit
17 the application of this subsection.

18 “(B) INFORMATION SHARING PROC-
19 ESSES.—

20 “(i) FOR IMPORTERS.—

21 “(I) IN GENERAL.—The Sec-
22 retary is authorized to establish a
23 clearance process for those importers
24 of record who wish to participate in
25 the process to allow for or accelerate

1 the release of merchandise from the
2 custody of the United States Customs
3 and Border Protection Agency without
4 the provision under paragraph (1),
5 prior to seizure of the merchandise, of
6 information, samples, images, or ma-
7 terial with respect to the merchandise.

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

19 “(ii) FOR OWNERS OF COPYRIGHTS
20 AND REGISTERED MARKS.—

21 “(I) IN GENERAL.—

22 “(aa) ESTABLISHMENT.—

23 The Secretary shall establish a
24 process or processes for those
25 owners of copyrights and owners

1 of registered marks that wish to
2 participate in the process or
3 processes, through which any
4 sharing of information, samples,
5 images, and material under para-
6 graph (1) will be carried out be-
7 fore the notification to the im-
8 porter of record referred to in
9 paragraph (1) is made, subject to
10 the limitation under subclause
11 (II) of clause (i).

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

21 “(II) PROVISION OF SAMPLES
22 AND INFORMATION TO CBP.—The
23 Secretary is authorized to establish a
24 process for those owners of copyrights
25 and owners of registered marks that

1 wish to provide to the United States
2 Customs and Border Protection Agen-
3 cy samples of, or information regard-
4 ing, their copyrighted merchandise or
5 merchandise that bears their reg-
6 istered marks (as the case may be), to
7 assist the Secretary in determining
8 whether merchandise presented for ex-
9 amination infringes the copyright or
10 bears or consists of a counterfeit
11 mark of the registered mark.

12 “(b) MERCHANDISE IN VIOLATION OF
13 ANTICIRCUMVENTION MEASURES.—

14 “(1) NOTIFICATION UPON SEIZURE.—

15 “(A) NOTIFICATION OF COPYRIGHT
16 OWNER.—Upon the seizure of merchandise by
17 the Secretary for a violation of subsection (a) or
18 (b) of section 1201 of title 17, United States
19 Code, the Secretary shall notify the owner of a
20 copyright who is included on the list established
21 under paragraph (4) of the seizure of the mer-
22 chandise that is capable of circumventing a
23 technological measure of the copyright owner
24 under either such subsection. The Secretary
25 shall also provide to any such person additional

1 information upon request, which shall be equiv-
2 alent to information provided pursuant to sec-
3 tion 602(b) of title 17, United States Code, and
4 the regulations issued under that section.

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

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

14 “(ii) on hardware on which the use of
15 the seized merchandise is capable of cir-
16 cumventing a technological measure of a
17 copyright owner,

18 in either case in a manner that would result in
19 injury to the owner of a copyright under either
20 such subsection, if the owner of the registered
21 mark is included on the list established under
22 paragraph (4). The Secretary shall also provide
23 to any such person additional information upon
24 request, which shall be equivalent to informa-
25 tion provided pursuant to section 602(b) of title

1 17, United States Code, and the regulations
2 issued under that section.

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

4 “(A) IN GENERAL.—In the case of mer-
5 chandise that the Secretary reasonably suspects
6 may be subject to seizure by the Secretary for
7 a violation of subsection (a) or (b) of section
8 1201 of title 17, United States Code, the Sec-
9 retary is authorized to provide a sample of the
10 merchandise to any person described in sub-
11 paragraph (B) in the case of merchandise that
12 is suspected of such a violation, when necessary
13 in the view of the Secretary to assist the Sec-
14 retary in determining whether such a violation
15 has occurred.

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

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

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

1 “(I) on hardware that contains a
2 technological measure that the seized
3 merchandise is capable of circum-
4 venting, or

5 “(II) on hardware on which the
6 use of the seized merchandise is capa-
7 ble of circumventing a technological
8 measure of a copyright owner,
9 in either case in a manner that would re-
10 sult in injury to the owner of a copyright
11 under either such subsection.

12 “(C) NONDISCLOSURE.—

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

21 “(ii) EXCEPTION.—Clause (i) does not
22 apply in the case of a sample that is dis-
23 closed or used in a civil action for infringe-
24 ment of a copyright under title 17, United

1 States Code, or infringement of a reg-
2 istered mark under the Lanham Act.

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

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

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

17 “(A) IN GENERAL.—In the case of mer-
18 chandise subject to seizure by the Secretary for
19 a violation of subsection (a) or (b) of section
20 1201 of title 17, United States Code, the Sec-
21 retary is authorized to provide a sample of the
22 merchandise to any person described in sub-
23 paragraph (B) if the merchandise has been
24 seized for such a violation.

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

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

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

12 “(I) on hardware that contains a
13 technological measure that the seized
14 merchandise is capable of circum-
15 venting, or

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

20 in either case in a manner that would re-
21 sult in injury to the owner of a copyright
22 under either such subsection, if the owner
23 of the registered mark is included on the
24 list established under paragraph (4). The
25 Secretary shall also provide to any such

1 person additional information upon re-
2 quest, which shall be equivalent to infor-
3 mation provided pursuant to section
4 602(b) of title 17, United States Code, and
5 the regulations issued under that section.

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

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

20 “(5) REGULATIONS.—Not later than the 90th
21 day after the date of the enactment of this section,
22 the Secretary shall promulgate regulations estab-
23 lishing procedures that implement this subsection.

24 “(c) NOTIFICATION OF PARTIES RESPONSIBLE FOR
25 INITIATION OF SECTION 337 INVESTIGATIONS.—The Sec-

1 retary is authorized to notify the party or parties respon-
2 sible for initiating an investigation under section 337 of
3 this Act when merchandise is excluded under subsection
4 (d) of that section, or merchandise is seized under sub-
5 section (i) of that section, pursuant to that investigation.

6 “(d) DEFINITIONS.—In this section:

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

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

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

19 “(4) The term ‘registered mark’ has the mean-
20 ing given that term in section 45 of the Lanham Act
21 (15 U.S.C. 1127).

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

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

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

5 **TITLE III—PREVENTION OF EVA-**
6 **SION OF ANTIDUMPING AND**
7 **COUNTERVAILING DUTY OR-**
8 **DERS**

9 **Subtitle A—Actions Relating to En-**
10 **forcement of Trade Remedy**
11 **Laws**

12 **SEC. 301. PREVENTION AND INVESTIGATION OF EVASION.**

13 (a) IN GENERAL.—The Tariff Act of 1930 is amend-
14 ed by inserting after section 516A (19 U.S.C. 1516a) the
15 following:

16 **“SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF**
17 **EVASION OF ANTIDUMPING AND COUNTER-**
18 **VAILING DUTY ORDERS.**

19 “(a) DEFINITIONS.—In this section:

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

23 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term ‘appropriate congressional com-
25 mittees’ means—

1 “(A) the Committee on Finance and the
2 Committee on Appropriations of the Senate;
3 and

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

7 “(3) COMMISSIONER.—The term ‘Commis-
8 sioner’ means the Commissioner of U.S. Customs
9 and Border Protection Agency.

10 “(4) COVERED MERCHANDISE.—The term ‘cov-
11 ered merchandise’ means merchandise that is subject
12 to—

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

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

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

19 “(5) ELIGIBLE SMALL BUSINESS.—

20 “(A) IN GENERAL.—The term ‘eligible
21 small business’ means any business concern
22 which, in the Commissioner’s judgment, due to
23 its small size, has neither adequate internal re-
24 sources nor financial ability to obtain qualified

1 outside assistance in preparing and submitting
2 for consideration allegations of evasion.

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

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

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

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

1 “(9) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of the Treasury.

3 “(10) TRADE REMEDY LAWS.—The term ‘trade
4 remedy laws’ means title VII of the Tariff Act of
5 1930.

6 “(b) TRADE REMEDY LAW ENFORCEMENT DIVI-
7 SION.—

8 “(1) ESTABLISHMENT.—

9 “(A) IN GENERAL.—The Secretary of
10 Homeland Security shall establish and maintain
11 within the Office of International Trade of U.S.
12 Customs and Border Protection Agency, estab-
13 lished under section 2(d) of the Act of March
14 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
15 2072(d)), a Trade Remedy Law Enforcement
16 Division.

17 “(B) COMPOSITION.—The Trade Law
18 Remedy Enforcement Division shall be com-
19 posed of—

20 “(i) headquarters personnel led by a
21 Director, who shall report to the Assistant
22 Commissioner of the Office of Inter-
23 national Trade; and

1 “(ii) a National Targeting and Anal-
2 ysis Group dedicated to preventing and
3 countering evasion.

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

6 “(i) to the development and adminis-
7 tration of policies to prevent and counter
8 evasion;

9 “(ii) to direct enforcement and com-
10 pliance assessment activities concerning
11 evasion;

12 “(iii) to the development and conduct
13 of commercial risk assessment targeting
14 with respect to cargo destined for the
15 United States in accordance with para-
16 graph (3);

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

19 “(v) to the development of policies for
20 the application of single entry and contin-
21 uous bonds for entries of covered merchan-
22 dise to sufficiently protect the collection of
23 antidumping and countervailing duties
24 commensurate with the level of risk of non-
25 collection.

1 “(2) DUTIES OF DIRECTOR.—The duties of the
2 Director of the Trade Remedy Law Enforcement Di-
3 vision shall include—

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

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

14 “(C) notifying on a timely basis the admin-
15 istering authority (as defined in section 771(1)
16 of the Tariff Act of 1930 (19 U.S.C. 1677(1)))
17 and the Commission (as defined in section
18 771(2) of the Tariff Act of 1930 (19 U.S.C.
19 1677(2))) of any finding, determination, civil
20 action, or criminal action taken by the U.S.
21 Customs and Border Protection Agency or
22 other Federal agency regarding evasion;

23 “(D) serving as the primary liaison be-
24 tween the U.S. Customs and Border Protection
25 Agency and the public regarding United States

1 Government activities concerning evasion, in-
2 cluding—

3 “(i) establish and administer the pro-
4 cedures described in subsection (c);

5 “(ii) upon request, provide technical
6 assistance and advice to eligible small busi-
7 nesses to enable such businesses to prepare
8 and submit allegations of evasion; and

9 “(iii) regularly consult with the public,
10 the Commercial Customs Operations Advi-
11 sory Committee, the Trade Support Net-
12 work, and any other relevant parties and
13 organizations regarding the development
14 and implementation of regulations, inter-
15 pretations, and policies related to coun-
16 tering evasion.

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

23 “(A) establish targeted risk assessment
24 methodologies and standards—

1 “(i) for evaluating the risk that cargo
2 destined for the United States may con-
3 stitute evading covered merchandise; and

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

7 “(B) to the extent practicable and other-
8 wise authorized by law, use information avail-
9 able from the Automated Commercial System,
10 the Automated Commercial Environment com-
11 puter system, the Automated Targeting System,
12 the Automated Export System, the Inter-
13 national Trade Data System, and the Treasury
14 Enforcement Communications System, and any
15 successor systems, to administer the methodolo-
16 gies and standards established under subpara-
17 graph (A).

18 “(4) TRADE ALERTS.—Based upon the applica-
19 tion of the targeted risk assessment methodologies
20 and standards established under paragraph (3), the
21 Director of the Trade Remedy Law Enforcement Di-
22 vision shall issue Trade Alerts or other such means
23 of notification to directors of United States ports of
24 entry directing further inspection, or physical exam-

1 ination or testing, of specific merchandise to ensure
2 compliance with the trade remedy laws.

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

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

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

12 The bond shall be set at an amount the Secretary
13 determines sufficient to protect revenue and to en-
14 sure compliance with the law, regulations, and in-
15 structions that the Secretary is authorized to en-
16 force.

17 “(c) PROCEDURES FOR INVESTIGATING ALLEGA-
18 TIONS OF EVASION.—

19 “(1) INITIATION BY PETITION OR REFERRAL.—

20 “(A) IN GENERAL.—Not later than 10
21 days after the date on which the Commissioner
22 receives a petition described in subparagraph
23 (B) or a referral described in subparagraph (C),
24 the Commissioner shall initiate an investigation
25 pursuant to this paragraph.

1 “(B) PETITION DESCRIBED.—A petition
2 described in this subparagraph is a petition
3 that—

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

7 “(ii) alleges that a person has entered
8 covered merchandise into the customs ter-
9 ritory of the United States through eva-
10 sion; and

11 “(iii) is accompanied by information
12 reasonably available to the petitioner sup-
13 porting the allegation.

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

22 “(2) DETERMINATIONS.—

23 “(A) PRELIMINARY DETERMINATION.—

24 “(i) IN GENERAL.—Not later than 90
25 days after the date on which the Commis-

1 sioner initiates an investigation under
2 paragraph (1), the Commissioner shall
3 issue a preliminary determination, based
4 on information available to the Commis-
5 sioner at the time of the determination,
6 with respect to whether there is a reason-
7 able basis to believe or suspect that the
8 covered merchandise was entered into the
9 customs territory of the United States
10 through evasion.

11 “(ii) EXTENSION.—The Commissioner
12 may extend by not more than 45 days the
13 time period specified in clause (i) if the
14 Commissioner determines that sufficient
15 information to make a preliminary deter-
16 mination under that clause is not available
17 within that time period or the inquiry is
18 unusually complex.

19 “(B) FINAL DETERMINATION.—

20 “(i) IN GENERAL.—Not later than
21 120 days after making a preliminary deter-
22 mination under subparagraph (A), the
23 Commissioner shall make a final deter-
24 mination, based on substantial evidence,
25 with respect to whether covered merchan-

1 dise was entered into the customs territory
2 of the United States through evasion.

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

11 “(iii) OPPORTUNITY FOR COMMENT;
12 HEARING.—After making a preliminary de-
13 termination under subparagraph (A) and
14 before issuing a final determination under
15 this subparagraph with respect to whether
16 covered merchandise was entered into the
17 customs territory of the United States
18 through evasion, the Commissioner shall—

19 “(I) provide any person alleged
20 to have entered the merchandise into
21 the customs territory of the United
22 States through evasion, and any per-
23 son that is an interested party with
24 respect to the merchandise, with an
25 opportunity to be heard;

1 “(II) upon request, hold a hear-
2 ing with respect to whether the cov-
3 ered merchandise was entered into the
4 customs territory of the United States
5 through evasion; and

6 “(III) provide an opportunity for
7 public comment.

8 “(C) AUTHORITY TO COLLECT AND VERIFY
9 ADDITIONAL INFORMATION.—In making a pre-
10 liminary determination under subparagraph (A)
11 or a final determination under subparagraph
12 (B), the Commissioner—

13 “(i) shall exercise all existing authori-
14 ties to collect information needed to make
15 the determination; and

16 “(ii) may collect such additional infor-
17 mation as is necessary to make the deter-
18 mination through such methods as the
19 Commissioner considers appropriate, in-
20 cluding by—

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

23 “(aa) a person that filed a
24 petition under paragraph (1)(B);

1 “(bb) a person alleged to
2 have entered covered merchan-
3 dise into the customs territory of
4 the United States through eva-
5 sion; or

6 “(cc) any other person that
7 is an interested party with re-
8 spect to the covered merchandise;
9 or

10 “(II) conducting verifications, in-
11 cluding on-site verifications, of any
12 relevant information.

13 “(D) ADVERSE INFERENCE.—

14 “(i) IN GENERAL.—If the Commis-
15 sioner finds that a person that filed a peti-
16 tion under paragraph (1)(B), a person al-
17 leged to have entered covered merchandise
18 into the customs territory of the United
19 States through evasion, or a foreign pro-
20 ducer or exporter, has failed to cooperate
21 by not acting to the best of the person’s
22 ability to comply with a request for infor-
23 mation, the Commissioner may, in making
24 a preliminary determination under sub-
25 paragraph (A) or a final determination

1 under subparagraph (B), use an inference
2 that is adverse to the interests of that per-
3 son in selecting from among the facts oth-
4 erwise available to determine whether eva-
5 sion has occurred.

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

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

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

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

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

21 “(E) NOTIFICATION AND PUBLICATION.—

22 Not later than 7 days after making a prelimi-
23 nary determination under subparagraph (A) or
24 a final determination under subparagraph (B),
25 the Commissioner shall—

1 “(i) provide notification of the deter-
2 mination to—

3 “(I) the administering authority;
4 and

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

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

12 “(3) BUSINESS PROPRIETARY INFORMATION.—

13 “(A) ESTABLISHMENT OF PROCEDURES.—

14 For each investigation initiated under para-
15 graph (1), the Commissioner shall establish
16 procedures for the submission of business pro-
17 prietary information under an administrative
18 protective order that—

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

21 “(ii) for purposes of submitting com-
22 ments to the Commissioner, provides lim-
23 ited access to such information for—

24 “(I) the person that submitted
25 the petition under paragraph (1)(B)

1 or the Federal agency that submitted
2 the referral under paragraph (1)(C);
3 and

4 “(II) the person alleged to have
5 entered covered merchandise into the
6 customs territory of the United States
7 through evasion.

8 “(B) ADMINISTRATION IN ACCORDANCE
9 WITH OTHER PROCEDURES.—The procedures
10 established under subparagraph (A) shall be ad-
11 ministered, to the maximum extent practicable,
12 in accordance with administrative protective
13 order procedures under section 777 by the ad-
14 ministering authority.

15 “(C) DISCLOSURE OF BUSINESS PROPRI-
16 ETARY INFORMATION.—The Commissioner
17 shall, in accordance with the procedures estab-
18 lished under subparagraph (A), make all busi-
19 ness proprietary information presented to, or
20 obtained by, the Commissioner during an inves-
21 tigation available to the persons specified in
22 subparagraph (A)(ii) under an administrative
23 protective order, regardless of when such infor-
24 mation is submitted during an investigation.

1 “(4) REFERRALS TO OTHER FEDERAL AGEN-
2 CIES.—

3 “(A) AFTER PRELIMINARY DETERMINA-
4 TION.—Notwithstanding section 777 and sub-
5 ject to subparagraph (C), when the Commis-
6 sioner makes an affirmative preliminary deter-
7 mination under paragraph (2)(A), the Commis-
8 sioner shall, at the request of the head of an-
9 other Federal agency, transmit the administra-
10 tive record to the head of that agency.

11 “(B) AFTER FINAL DETERMINATION.—
12 Notwithstanding section 777 and subject to
13 subparagraph (C), when the Commissioner
14 makes an affirmative final determination under
15 paragraph (2)(B), the Commissioner shall, at
16 the request of the head of another Federal
17 agency, transmit the complete administrative
18 record to the head of that agency.

19 “(C) PROTECTIVE ORDERS.—Before trans-
20 mitting an administrative record to the head of
21 another Federal agency under subparagraph
22 (A) or (B), the Commissioner shall verify that
23 the other agency has in effect with respect to
24 the administrative record a protective order
25 that provides the same or a similar level of pro-

1 tection for the information in the administrative
2 record as the protective order in effect with re-
3 spect to such information under this subsection.

4 “(d) EFFECT OF DETERMINATIONS.—

5 “(1) EFFECT OF AFFIRMATIVE PRELIMINARY
6 DETERMINATION.—If the Commissioner makes a
7 preliminary determination in accordance with sub-
8 section (c)(2)(A) that there is a reasonable basis to
9 believe or suspect that covered merchandise was en-
10 tered into the customs territory of the United States
11 through evasion, the Commissioner shall—

12 “(A) suspend the liquidation of each unliq-
13 uidated entry of the covered merchandise that
14 is subject to the preliminary determination and
15 that entered on or after the date of the initi-
16 ation of the investigation under paragraph (1)
17 and, pursuant to the Commissioner’s authority
18 under section 504(b), extend liquidation of each
19 unliquidated entry of the covered merchandise
20 that is subject to the preliminary determination
21 and that entered prior to the date of the initi-
22 ation of the investigation under paragraph (1);

23 “(B) review and reassess the amount of
24 bond or other security the importer is required

1 to post for each entry of merchandise described
2 in subparagraph (A);

3 “(C) require the posting of a cash deposit
4 with respect to each entry of merchandise de-
5 scribed in subparagraph (A); and

6 “(D) take such other measures as the
7 Commissioner determines appropriate to ensure
8 the collection of any duties that may be owed
9 with respect to merchandise described in sub-
10 paragraph (A) as a result of a final determina-
11 tion under subsection (c)(2)(B).

12 “(2) EFFECT OF NEGATIVE PRELIMINARY DE-
13 TERMINATION.—If the Commissioner makes a pre-
14 liminary determination in accordance with sub-
15 section (c)(2)(A) that there is not a reasonable basis
16 to believe or suspect that covered merchandise was
17 entered into the customs territory of the United
18 States through evasion, the Commissioner shall con-
19 tinue the investigation and notify the administering
20 authority pending a final determination under sub-
21 section (c)(2)(B).

22 “(3) EFFECT OF AFFIRMATIVE FINAL DETER-
23 MINATION.—If the Commissioner makes a final de-
24 termination in accordance with subsection (c)(2)(B)
25 that covered merchandise was entered into the cus-

1 toms territory of the United States through evasion,
2 the Commissioner shall—

3 “(A) suspend or continue to suspend, as
4 the case may be, the liquidation of each entry
5 of the covered merchandise that is subject to
6 the determination and that enters on or after
7 the date of the determination and, pursuant to
8 the Commissioner’s authority under section
9 504(b), extend or continue to extend, as the
10 case may be, the liquidation of each entry of
11 the covered merchandise that is subject to the
12 determination and that entered prior to the
13 date of the determination;

14 “(B) notify the administering authority of
15 the determination and request that the admin-
16 istering authority—

17 “(i) identify the applicable anti-
18 dumping or countervailing duty assessment
19 rate for the entries for which liquidation is
20 suspended under paragraph (1)(A) or sub-
21 paragraph (A) of this paragraph; or

22 “(ii) if no such assessment rates are
23 available at the time, identify the applica-
24 ble cash deposit rate to be applied to the
25 entries described in subparagraph (A),

1 with the applicable antidumping or coun-
2 tervailing duty assessment rates to be pro-
3 vided as soon as such rates become avail-
4 able;

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

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

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

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

20 “(ii) implementing, in consultation
21 with the relevant Federal agencies, rule
22 sets or modifications to rules sets for iden-
23 tifying, particularly through the Auto-
24 mated Targeting System and the Auto-
25 mated Commercial Environment, import-

1 ers, other parties, and merchandise that
2 may be associated with evasion;

3 “(iii) requiring, with respect to mer-
4 chandise for which the importer has re-
5 peatedly provided incomplete or erroneous
6 entry summary information in connection
7 with determinations of evasion, the im-
8 porter to submit entry summary docu-
9 mentation and to deposit estimated duties
10 at the time of entry;

11 “(iv) referring the record in whole or
12 in part to U.S. Immigration and Customs
13 Enforcement for civil or criminal investiga-
14 tion; and

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

18 “(4) EFFECT OF NEGATIVE FINAL DETERMINA-
19 TION.—If the Commissioner makes a final deter-
20 mination in accordance with subsection (c)(2)(B)
21 that covered merchandise was not entered into the
22 customs territory of the United States through eva-
23 sion, the Commissioner shall terminate the suspen-
24 sion of liquidation pursuant to paragraph (1)(A) and
25 refund any cash deposits collected pursuant to para-

1 graph (1)(C) that are in excess of the cash deposit
2 rate that would otherwise have been applicable the
3 merchandise.

4 “(5) COOPERATION OF ADMINISTERING AU-
5 THORITY.—

6 “(A) IN GENERAL.—Upon receiving a noti-
7 fication from the Commissioner under para-
8 graph (3)(B), the administering authority shall
9 promptly provide to the Commissioner the ap-
10 plicable cash deposit rates and antidumping or
11 countervailing duty assessment rates and any
12 necessary liquidation instructions.

13 “(B) SPECIAL RULE FOR CASES IN WHICH
14 THE PRODUCER OR EXPORTER IS UNKNOWN.—
15 If the Commissioner and administering author-
16 ity are unable to determine the producer or ex-
17 porter of the merchandise with respect to which
18 a notification is made under paragraph (3)(B),
19 the administering authority shall identify, as
20 the applicable cash deposit rate or antidumping
21 or countervailing duty assessment rate, the cash
22 deposit or duty (as the case may be) in the
23 highest amount applicable to any producer or
24 exporter, including the ‘all-others’ rate of the
25 merchandise subject to an antidumping order or

1 countervailing duty order under section 736 or
2 706, respectively, or a finding issued under the
3 Antidumping Act, 1921, or any administrative
4 review conducted under section 751.

5 “(e) SPECIAL RULES.—

6 “(1) EFFECT ON OTHER AUTHORITIES.—Nei-
7 ther the initiation of an investigation under sub-
8 section (c)(1) nor a preliminary determination or a
9 final determination under subsection (c)(2) shall af-
10 fect the authority of the Commissioner—

11 “(A) to pursue such other enforcement
12 measures with respect to the evasion of anti-
13 dumping or countervailing duties as the Com-
14 missioner determines necessary, including en-
15 forcement measures described in clauses (i)
16 through (iv) of subsection (d)(3)(E); or

17 “(B) to assess any penalties or collect any
18 applicable duties, taxes, and fees, including pur-
19 suant to section 592.

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

24 “(3) NEGLIGENCE OR INTENT.—The Commis-
25 sioner shall investigate and make a preliminary de-

1 termination or a final determination under this sec-
 2 tion with respect to whether a person has entered
 3 covered merchandise into the customs territory of
 4 the United States through evasion without regard to
 5 whether the person—

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

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

13 (b) TECHNICAL AMENDMENT.—Clause (ii) of section
 14 777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C.
 15 1677f(b)(1)(A)) is amended to read as follows:

16 “(ii) to an officer or employee of U.S.
 17 Customs and Border Protection Agency
 18 who is directly involved in conducting an
 19 investigation regarding fraud under this
 20 title or claims of evasion under section
 21 516B.”.

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

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

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

5 (C) by inserting after clause (ii) the fol-
6 lowing:

7 “(iii) the date of publication in the
8 Federal Register of a determination de-
9 scribed in clause (ix) of subparagraph
10 (B),”; and

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

13 “(ix) A determination by the Commis-
14 sioner responsible for U.S. Customs and
15 Border Protection under section 516B that
16 merchandise has been entered into the cus-
17 toms territory of the United States
18 through evasion.”.

19 (d) FINALITY OF DETERMINATIONS.—Section 514(b)
20 of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended
21 by striking “section 303” and all that follows through
22 “which are reviewable” and inserting “section 516B or
23 title VII that are reviewable”.

1 **SEC. 302. APPLICATION TO CANADA AND MEXICO.**

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

7 **Subtitle B—Other Matters**

8 **SEC. 311. DEFINITIONS.**

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

14 **SEC. 312. ALLOCATION AND TRAINING OF PERSONNEL.**

15 (a) REASSIGNMENT AND ALLOCATION.—The Com-
16 missioner shall, to the maximum extent possible, ensure
17 that the U.S. Customs and Border Protection Agency—

18 (1) employs sufficient personnel who have ex-
19 pertise in, and responsibility for, preventing and in-
20 vestigating the entry of covered merchandise into the
21 customs territory of the United States through eva-
22 sion;

23 (2) on the basis of risk assessment metrics, as-
24 signs sufficient personnel with primary responsibility
25 for preventing the entry of covered merchandise into
26 the customs territory of the United States through

1 evasion to the ports of entry in the United States at
2 which the Commissioner determines potential eva-
3 sion presents the most substantial threats to the rev-
4 enue of the United States; and

5 (3) provides adequate training to relevant per-
6 sonnel to increase expertise and effectiveness in the
7 prevention and investigation of entries of covered
8 merchandise into the customs territory of the United
9 States through evasion.

10 (b) COMMERCIAL ENFORCEMENT OFFICERS.—Not
11 later than 30 days after the enactment of this Act, the
12 Secretary of Homeland Security, the Commissioner, and
13 the Assistant Secretary for U.S. Immigration and Cus-
14 toms Enforcement shall assess and properly allocate the
15 resources of the U.S. Customs and Border Protection
16 Agency and U.S. Immigration and Customs Enforce-
17 ment—

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

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

22 **SEC. 313. REGULATIONS.**

23 (a) IN GENERAL.—Not later than 240 days after the
24 date of the enactment of this Act, the Commissioner shall

1 issue regulations to carry out this title and the amend-
2 ments made by this title.

3 (b) COOPERATION BETWEEN U.S. CUSTOMS AND
4 BORDER PROTECTION AGENCY, U.S. IMMIGRATION AND
5 CUSTOMS ENFORCEMENT, AND DEPARTMENT OF COM-
6 MERCE.—Not later than 240 days after the date of the
7 enactment of this Act, the Commissioner, the Assistant
8 Secretary for U.S. Immigration and Customs Enforce-
9 ment, and the Secretary of Commerce shall establish pro-
10 cedures to ensure maximum cooperation and communica-
11 tion between the U.S. Customs and Border Protection
12 Agency, U.S. Immigration and Customs Enforcement, and
13 the Department of Commerce in order to quickly, effi-
14 ciently, and accurately investigate allegations of evasion
15 under section 516B of the Tariff Act of 1930 (as added
16 by section 301(a) of this Act).

17 **SEC. 314. ANNUAL REPORT ON PREVENTION OF EVASION**
18 **OF ANTIDUMPING AND COUNTERVAILING**
19 **DUTY ORDERS.**

20 (a) IN GENERAL.—Not later than February 28 of
21 each year, beginning in 2013, the Commissioner, in con-
22 sultation with the Secretary of Commerce and the Assist-
23 ant Secretary for U.S. Immigration and Customs Enforce-
24 ment, shall submit to the appropriate congressional com-

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

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

5 (1) for the calendar year preceding the submis-
6 sion of the report—

7 (A) a summary of the efforts of the U.S.
8 Customs and Border Protection Agency to pre-
9 vent and investigate evasion;

10 (B) the number of allegations of evasion
11 received and the number of allegations of eva-
12 sion resulting in investigations by the U.S. Cus-
13 toms and Border Protection Agency or any
14 other agency;

15 (C) a summary of the completed investiga-
16 tions of evasion, including the number and na-
17 ture of the investigations initiated, conducted,
18 or completed, as well as their resolution;

19 (D) with respect to investigations that lead
20 to lead to issuance of a penalty notice, the pen-
21 alty amounts;

22 (E) the amounts of antidumping and coun-
23 tervailing duties collected as a result of any in-
24 vestigations or other actions by the U.S. Cus-

1 toms and Border Protection Agency or any
2 other agency;

3 (F) a description of the allocation of per-
4 sonnel and other resources of the U.S. Customs
5 and Border Protection Agency and U.S. Immig-
6 ration and Customs Enforcement to prevent
7 and investigation evasion, including any assess-
8 ments conducted regarding the allocation of
9 such personnel and resources; and

10 (G) a description of training conducted to
11 increase expertise and effectiveness in the pre-
12 vention and investigation of evasion; and

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

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

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

23 (C) identification of any changes since the
24 last report that have materially improved or re-
25 duced the effectiveness of the U.S. Customs

1 and Border Protection Agency to prevent and
2 investigate evasion;

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

10 (E) the processes and procedures for in-
11 creased cooperation and information sharing
12 with the Department of Commerce, U.S. Immi-
13 gration and Customs Enforcement, and any
14 other relevant Federal agencies to prevent and
15 investigate evasion; and

16 (F) identification of any recommended pol-
17 icy changes of other Federal agencies or legisla-
18 tive changes to improve the effectiveness of the
19 U.S. Customs and Border Protection Agency to
20 prevent and investigate evasion.

21 **SEC. 315. GOVERNMENT ACCOUNTABILITY OFFICE REPORT**
22 **ON RELIQUIDATION AUTHORITY.**

23 Not later than 60 days after the date of the enact-
24 ment of this Act, the Comptroller General of the United
25 States shall submit to the appropriate congressional com-

1 mittees, and make available to the public, a report esti-
 2 mating the amount of duties that could not be collected
 3 on covered merchandise that entered the customs territory
 4 of the United States through evasion during fiscal years
 5 2011 and 2012 because the Commissioner did not have
 6 the authority to reliquidate the entries of such merchan-
 7 dise.

8 **SEC. 316. ADDRESSING CIRCUMVENTION BY NEW SHIP-**
 9 **PERS.**

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

12 (1) by striking clause (iii);

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

14 and

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

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

1 an exporter or producer made during the
2 period covered by the review were bona
3 fide, the administering authority shall con-
4 sider, depending on the circumstances sur-
5 rounding such sales—

6 “(I) the prices of such sales;

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

9 “(III) the timing of such sales;

10 “(IV) the expenses arising from
11 such sales;

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

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

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

**TITLE IV—MISCELLANEOUS
PROVISIONS**

SEC. 401. PENALTIES FOR CUSTOMS BROKERS.

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

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

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

(3) by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) in paragraph (3)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(1) IN GENERAL.—If imported”;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) in paragraph (1)—

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

11 (B) in subparagraph (D)—

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

13 and

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

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

20 (2) in paragraph (2)—

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

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

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

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

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

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

17 (1) in paragraph (1)(A)—

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

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

23 (2) in paragraph (2)—

24 (A) in subparagraph (B)—

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

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

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

8 (B) in subparagraph (C)(ii)(II)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (2) in paragraph (1)—

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

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

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

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

9 (3) in paragraph (3)(A)—

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

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

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

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

22 “(A) the amount determined by dividing—

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

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

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

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

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

12 “(z) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

17 (m) EFFECTIVE DATE.—

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

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

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

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

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

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

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

16 (1) a description of the implementation of sec-
17 tion 313 of the Tariff Act of 1930 (19 U.S.C.
18 1313), as amended by this section;

19 (2) an evaluation of the modernization of draw-
20 back and refunds under subsection (b) of section
21 313 of such Act (relating to substitution for draw-
22 back purposes), as amended by this section;

23 (3) an evaluation of extending the moderniza-
24 tion of drawback and refunds to subsection (j) of

1 section 313 of such Act (relating to unused mer-
 2 chandise drawback), as amended by this section; and

3 (4) recommendations for the processing of
 4 drawback claims under the Automated Commercial
 5 Environment computer system authorized under sec-
 6 tion 13031(f)(5) of the Consolidated Omnibus Budg-
 7 et and Reconciliation Act of 1985 (19 U.S.C.
 8 58c(f)(5)).

9 **SEC. 405. AMENDMENTS TO CHAPTER 98 OF THE HAR-**
 10 **MONIZED TARIFF SCHEDULE OF THE UNITED**
 11 **STATES.**

12 (a) ARTICLES EXPORTED AND RETURNED, AD-
 13 VANCED OR IMPROVED ABROAD.—

14 (1) IN GENERAL.—U.S. Note 3 to subchapter
 15 II of chapter 98 of the Harmonized Tariff Schedule
 16 of the United States is amended by adding at the
 17 end the following:

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

22 “(A) may be commingled; and

23 “(B) the origin, value, and classification of
 24 such goods may be accounted for using an in-
 25 ventory management method.

1 “(ii) If a person chooses to use an inventory
2 management method under this paragraph with re-
3 spect to fungible goods, the person shall use the
4 same inventory management method for any other
5 goods with respect to which the person claims
6 fungibility under this paragraph.

7 “(iii) For the purposes of this paragraph—

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

13 “(B) the term ‘inventory management
14 method’ means any method for managing inven-
15 tory that is based on generally accepted ac-
16 counting principles.”.

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

24 (b) MODIFICATION OF PROVISIONS RELATING TO
25 RETURNED PROPERTY.—

1 (1) IN GENERAL.—The article description for
 2 heading 9801.00.10 of the Harmonized Tariff
 3 Schedule of the United States is amended by insert-
 4 ing after “exported” the following: “, or any other
 5 products when returned within 3 years after having
 6 been exported”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) applies to goods entered, or with-
 9 drawn from warehouse for consumption, on or after
 10 the 15th day after the date of the enactment of this
 11 Act.

12 (c) DUTY FREE TREATMENT FOR CERTAIN UNITED
 13 STATES GOVERNMENT PROPERTY RETURNED TO THE
 14 UNITED STATES.—

15 (1) IN GENERAL.—Subchapter I of chapter 98
 16 of the Harmonized Tariff Schedule of the United
 17 States is amended by inserting in numerical se-
 18 quence the following new heading:

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property	Free					”.
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19 (2) EFFECTIVE DATE.—The amendment made
 20 by paragraph (1) applies to goods entered, or with-

1 drawn from warehouse for consumption, on or after
2 the 15th day after the date of the enactment of this
3 Act.

4 **TITLE V—OTHER TRADE**
5 **AGENCIES**

6 **SEC. 501. UNITED STATES INTERNATIONAL TRADE COMMIS-**
7 **SION.**

8 (a) FISCAL YEAR 2013.—There are authorized to be
9 appropriated for the salaries and expenses of the United
10 States International Trade Commission not to exceed
11 \$82,800,000 for fiscal year 2013.

12 (b) FISCAL YEARS 2014 AND 2015.—Section
13 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C.
14 1330(e)(2)(A)) is amended by striking clauses (i) and (ii)
15 and inserting the following:

16 “(i) \$86,800,000 for fiscal year 2014.

17 “(ii) \$88,900,000 for fiscal year
18 2015.”.

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

21 (a) FISCAL YEAR 2013.—There are authorized to be
22 appropriated for the salaries and expenses of the Office
23 of the United States Trade Representative not less than
24 \$54,500,000, including for additional resources to

1 strengthen the monitoring and enforcement of existing
2 United States trade agreements.

3 (b) SENSE OF CONGRESS ON INTERAGENCY TRADE
4 ENFORCEMENT CENTER.—It is the sense of Congress
5 that—

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

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

18 (3) an Interagency Trade Enforcement Center,
19 as established by Executive Order 13601 of Feb-
20 ruary 28, 2012, has the potential to strengthen the
21 monitoring and enforcement of United States rights
22 under international trade agreements and the en-
23 forcement of domestic trade laws.

○