

## Calendar No. 76

114TH CONGRESS  
1ST SESSION**S. 1269**

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

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IN THE SENATE OF THE UNITED STATES

MAY 11, 2015

Mr. HATCH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To reauthorize trade facilitation and trade enforcement functions and activities, 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 “Trade Facilitation and Trade Enforcement Act of 2015”.

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

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

TITLE I—TRADE FACILITATION AND TRADE ENFORCEMENT

- Sec. 101. Improving partnership programs.
- Sec. 102. Report on effectiveness of trade enforcement activities.
- Sec. 103. Priorities and performance standards for customs modernization, trade facilitation, and trade enforcement functions and programs.
- Sec. 104. Educational seminars to improve efforts to classify and appraise imported articles, to improve trade enforcement efforts, and to otherwise facilitate legitimate international trade.
- Sec. 105. Joint strategic plan.
- Sec. 106. Automated Commercial Environment.
- Sec. 107. International Trade Data System.
- Sec. 108. Consultations with respect to mutual recognition arrangements.
- Sec. 109. Commercial Customs Operations Advisory Committee.
- Sec. 110. Centers of Excellence and Expertise.
- Sec. 111. Commercial Targeting Division and National Targeting and Analysis Groups.
- Sec. 112. Report on oversight of revenue protection and enforcement measures.
- Sec. 113. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 114. Importer of record program.
- Sec. 115. Establishment of new importer program.

#### TITLE II—IMPORT HEALTH AND SAFETY

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

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

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

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

- Sec. 401. Short title.
- Sec. 402. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
- Sec. 403. Annual report on prevention and investigation of evasion of anti-dumping and countervailing duty orders.

TITLE V—AMENDMENTS TO ANTIDUMPING AND  
COUNTERVAILING DUTY LAWS

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

TITLE VI—ADDITIONAL TRADE ENFORCEMENT AND  
INTELLECTUAL PROPERTY RIGHTS PROTECTION

Subtitle A—Trade Enforcement

- Sec. 601. Trade enforcement priorities.
- Sec. 602. Exercise of WTO authorization to suspend concessions or other obligations under trade agreements.
- Sec. 603. Trade monitoring.
- Sec. 604. Establishment of Interagency Trade Enforcement Center.
- Sec. 605. Establishment of Chief Manufacturing Negotiator.
- Sec. 606. Enforcement under title III of the Trade Act of 1974 with respect to certain acts, policies, and practices relating to the environment.
- Sec. 607. Trade Enforcement Trust Fund.
- Sec. 608. Honey transshipment.
- Sec. 609. Inclusion of interest in certain distributions of antidumping duties and countervailing duties.
- Sec. 610. Illicitly imported, exported, or trafficked cultural property, archaeological or ethnological materials, and fish, wildlife, and plants.

Subtitle B—Intellectual Property Rights Protection

- Sec. 611. Establishment of Chief Innovation and Intellectual Property Negotiator.
- Sec. 612. Measures relating to countries that deny adequate protection for intellectual property rights.

TITLE VII—CURRENCY MANIPULATION

Subtitle A—Investigation of Currency Undervaluation

- Sec. 701. Short title.
- Sec. 702. Investigation or review of currency undervaluation under countervailing duty law.
- Sec. 703. Benefit calculation methodology with respect to currency undervaluation.
- Sec. 704. Modification of definition of specificity with respect to export subsidy.
- Sec. 705. Application to Canada and Mexico.
- Sec. 706. Effective date.

Subtitle B—Engagement on Currency Exchange Rate and Economic Policies

- Sec. 711. Enhancement of engagement on currency exchange rate and economic policies with certain major trading partners of the United States.

Sec. 712. Advisory Committee on International Exchange Rate Policy.

TITLE VIII—PROCESS FOR CONSIDERATION OF TEMPORARY  
DUTY SUSPENSIONS AND REDUCTIONS

- Sec. 801. Short title.  
 Sec. 802. Sense of Congress on the need for a miscellaneous tariff bill.  
 Sec. 803. Process for consideration of duty suspensions and reductions.  
 Sec. 804. Report on effects of duty suspensions and reductions on United States economy.  
 Sec. 805. Judicial review precluded.  
 Sec. 806. Definitions.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. De minimis value.  
 Sec. 902. Consultation on trade and customs revenue functions.  
 Sec. 903. Penalties for customs brokers.  
 Sec. 904. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.  
 Sec. 905. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.  
 Sec. 906. Drawback and refunds.  
 Sec. 907. Inclusion of certain information in submission of nomination for appointment as Deputy United States Trade Representative.  
 Sec. 908. Biennial reports regarding competitiveness issues facing the United States economy and competitive conditions for certain key United States industries.  
 Sec. 909. Report on certain U.S. Customs and Border Protection agreements.  
 Sec. 910. Charter flights.  
 Sec. 911. Amendment to Tariff Act of 1930 to require country of origin marking of certain castings.  
 Sec. 912. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.  
 Sec. 913. Improved collection and use of labor market information.  
 Sec. 914. Statements of policy with respect to Israel.

TITLE X—OFFSETS

- Sec. 1001. Revocation or denial of passport in case of certain unpaid taxes.  
 Sec. 1002. Customs user fees.

**1 SEC. 2. DEFINITIONS.**

**2 In this Act:**

- 3 (1) AUTOMATED COMMERCIAL ENVIRON-**  
**4 MENT.—**The term “Automated Commercial Environ-  
**5 ment”** means the Automated Commercial Environ-  
**6 ment computer system authorized under section**

1 13031(f)(4) of the Consolidated Omnibus Budget  
2 Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)).

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

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

9 (A) The Tariff Act of 1930 (19 U.S.C.  
10 1202 et seq.).

11 (B) Section 249 of the Revised Statutes  
12 (19 U.S.C. 3).

13 (C) Section 2 of the Act of March 4, 1923  
14 (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

15 (D) The Act of March 3, 1927 (44 Stat.  
16 1381, chapter 348; 19 U.S.C. 2071 et seq.).

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

20 (F) Section 251 of the Revised Statutes  
21 (19 U.S.C. 66).

22 (G) Section 1 of the Act of June 26, 1930  
23 (46 Stat. 817, chapter 617; 19 U.S.C. 68).

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

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

3 (J) The Trade Act of 1974 (19 U.S.C.  
4 2102 et seq.).

5 (K) The Trade Agreements Act of 1979  
6 (19 U.S.C. 2501 et seq.).

7 (L) The North American Free Trade  
8 Agreement Implementation Act (19 U.S.C.  
9 3301 et seq.).

10 (M) The Uruguay Round Agreements Act  
11 (19 U.S.C. 3501 et seq.).

12 (N) The Caribbean Basin Economic Recov-  
13 ery Act (19 U.S.C. 2701 et seq.).

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

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

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

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

22 (S) The Customs Procedural Reform and  
23 Simplification Act of 1978 (Public Law 95–  
24 410; 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 March 28, 1928 (45 Stat.  
6           374, chapter 266; 19 U.S.C. 2077 et seq.).

7           (W) The Act of August 7, 1939 (53 Stat.  
8           1263, chapter 566).

9           (X) Any other provision of law imple-  
10          menting a trade agreement.

11          (Y) Any other provision of law vesting cus-  
12          toms revenue functions in the Secretary of the  
13          Treasury.

14          (Z) Any other provision of law relating to  
15          trade facilitation or trade enforcement that is  
16          administered by U.S. Customs and Border Pro-  
17          tection on behalf of any Federal agency that is  
18          required to participate in the International  
19          Trade Data System.

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

24          (4) PRIVATE SECTOR ENTITY.—The term “pri-  
25          vate sector entity” means—

- 1 (A) an importer;
- 2 (B) an exporter;
- 3 (C) a forwarder;
- 4 (D) an air, sea, or land carrier or shipper;
- 5 (E) a contract logistics provider;
- 6 (F) a customs broker; or
- 7 (G) any other person (other than an em-
- 8 ployee of a government) affected by the imple-
- 9 mentation of the customs and trade laws of the
- 10 United States.

11 (5) TRADE ENFORCEMENT.—The term “trade

12 enforcement” means the enforcement of the customs

13 and trade laws of the United States.

14 (6) TRADE FACILITATION.—The term “trade

15 facilitation” refers to policies and activities of U.S.

16 Customs and Border Protection with respect to fa-

17 cilitating the movement of merchandise into and out

18 of the United States in a manner that complies with

19 the customs and trade laws of the United States.

20 **TITLE I—TRADE FACILITATION**

21 **AND TRADE ENFORCEMENT**

22 **SEC. 101. IMPROVING PARTNERSHIP PROGRAMS.**

23 (a) IN GENERAL.—In order to advance the security,

24 trade enforcement, and trade facilitation missions of U.S.

25 Customs and Border Protection, the Commissioner shall

1 ensure that partnership programs of U.S. Customs and  
2 Border Protection established before the date of the enact-  
3 ment of this Act, such as the Customs–Trade Partnership  
4 Against Terrorism established under subtitle B of title II  
5 of the Security and Accountability for Every Port Act of  
6 2006 (6 U.S.C. 961 et seq.), and partnership programs  
7 of U.S. Customs and Border Protection established after  
8 such date of enactment, provide trade benefits to private  
9 sector entities that meet the requirements for participation  
10 in those programs established by the Commissioner under  
11 this section.

12 (b) ELEMENTS.—In developing and operating part-  
13 nership programs under subsection (a), the Commissioner  
14 shall—

15 (1) consult with private sector entities, the pub-  
16 lic, and other Federal agencies when appropriate, to  
17 ensure that participants in those programs receive  
18 commercially significant and measurable trade bene-  
19 fits, including providing preclearance of merchandise  
20 for qualified persons that demonstrate the highest  
21 levels of compliance with the customs and trade laws  
22 of the United States, regulations of U.S. Customs  
23 and Border Protection, and other requirements the  
24 Commissioner determines to be necessary;

1           (2) ensure an integrated and transparent sys-  
2           tem of trade benefits and compliance requirements  
3           for all partnership programs of U.S. Customs and  
4           Border Protection;

5           (3) consider consolidating partnership programs  
6           in situations in which doing so would support the  
7           objectives of such programs, increase participation in  
8           such programs, enhance the trade benefits provided  
9           to participants in such programs, and enhance the  
10          allocation of the resources of U.S. Customs and Bor-  
11          der Protection;

12          (4) coordinate with the Director of U.S. Immi-  
13          gration and Customs Enforcement, and other Fed-  
14          eral agencies with authority to detain and release  
15          merchandise entering the United States—

16                (A) to ensure coordination in the release of  
17                such merchandise through the Automated Com-  
18                mercial Environment, or its predecessor, and  
19                the International Trade Data System;

20                (B) to ensure that the partnership pro-  
21                grams of those agencies are compatible with the  
22                partnership programs of U.S. Customs and  
23                Border Protection;

24                (C) to develop criteria for authorizing the  
25                release, on an expedited basis, of merchandise

1 for which documentation is required from one  
2 or more of those agencies to clear or license the  
3 merchandise for entry into the United States;  
4 and

5 (D) to create pathways, within and among  
6 the appropriate Federal agencies, for qualified  
7 persons that demonstrate the highest levels of  
8 compliance to receive immediate clearance ab-  
9 sent information that a transaction may pose a  
10 national security or compliance threat; and

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

13 (c) REPORT REQUIRED.—Not later than the date  
14 that is 180 days after the date of the enactment of this  
15 Act, and December 31 of each year thereafter, the Com-  
16 missioner shall submit to the Committee on Finance of  
17 the Senate and the Committee on Ways and Means of the  
18 House of Representatives a report that—

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

21 (2) for each such program, identifies—

22 (A) the requirements for participants in  
23 the program;

1 (B) the commercially significant and meas-  
2 urable trade benefits provided to participants in  
3 the program;

4 (C) the number of participants in the pro-  
5 gram; and

6 (D) in the case of a program that provides  
7 for participation at multiple tiers, the number  
8 of participants at each such tier;

9 (3) identifies the number of participants en-  
10 rolled in more than one such partnership program;

11 (4) assesses the effectiveness of each such part-  
12 nership program in advancing the security, trade en-  
13 forcement, and trade facilitation missions of U.S.  
14 Customs and Border Protection, based on historical  
15 developments, the level of participation in the pro-  
16 gram, and the evolution of benefits provided to par-  
17 ticipants in the program;

18 (5) summarizes the efforts of U.S. Customs and  
19 Border Protection to work with other Federal agen-  
20 cies with authority to detain and release merchan-  
21 dise entering the United States to ensure that part-  
22 nership programs of those agencies are compatible  
23 with partnership programs of U.S. Customs and  
24 Border Protection;

1           (6) summarizes criteria developed with those  
2 agencies for authorizing the release, on an expedited  
3 basis, of merchandise for which documentation is re-  
4 quired from one or more of those agencies to clear  
5 or license the merchandise for entry into the United  
6 States;

7           (7) summarizes the efforts of U.S. Customs and  
8 Border Protection to work with private sector enti-  
9 ties and the public to develop and improve partner-  
10 ship programs referred to in subsection (a);

11           (8) describes measures taken by U.S. Customs  
12 and Border Protection to make private sector enti-  
13 ties aware of the trade benefits available to partici-  
14 pants in such programs; and

15           (9) summarizes the plans, targets, and goals of  
16 U.S. Customs and Border Protection with respect to  
17 such programs for the 2 years following the submis-  
18 sion of the report.

19 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE EN-**  
20 **FORCEMENT ACTIVITIES.**

21           (a) IN GENERAL.—Not later than one year after the  
22 date of the enactment of this Act, the Comptroller General  
23 of the United States shall submit to the Committee on  
24 Finance of the Senate and the Committee on Ways and  
25 Means of the House of Representatives a report on the

1 effectiveness of trade enforcement activities of U.S. Cus-  
2 toms and Border Protection.

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

5 (1) a description of the use of resources, results  
6 of audits and verifications, targeting, organization,  
7 and training of personnel of U.S. Customs and Bor-  
8 der Protection;

9 (2) a description of trade enforcement activities  
10 to address undervaluation, transshipment, legitimacy  
11 of entities making entry, protection of revenues,  
12 fraud prevention and detection, and penalties, in-  
13 cluding intentional misclassification, inadequate  
14 bonding, and other misrepresentations; and

15 (3) a description of trade enforcement activities  
16 with respect to the priority trade issues described in  
17 paragraph (3)(B)(ii) of section 2(d) of the Act of  
18 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
19 U.S.C. 2072(d)), as added by section 111(a) of this  
20 Act, including—

21 (A) methodologies used in such enforce-  
22 ment activities, such as targeting;

23 (B) recommendations for improving such  
24 enforcement activities; and

1 (C) a description of the implementation of  
2 previous recommendations for improving such  
3 enforcement activities.

4 (c) FORM OF REPORT.—The report required by sub-  
5 section (a) shall be submitted in unclassified form, but  
6 may include a classified annex.

7 **SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS**  
8 **FOR CUSTOMS MODERNIZATION, TRADE FA-**  
9 **CILITATION, AND TRADE ENFORCEMENT**  
10 **FUNCTIONS AND PROGRAMS.**

11 (a) PRIORITIES AND PERFORMANCE STANDARDS.—

12 (1) IN GENERAL.—The Commissioner, in con-  
13 sultation with the Committee on Finance of the Sen-  
14 ate and the Committee on Ways and Means of the  
15 House of Representatives, shall establish priorities  
16 and performance standards to measure the develop-  
17 ment and levels of achievement of the customs mod-  
18 ernization, trade facilitation, and trade enforcement  
19 functions and programs described in subsection (b).

20 (2) MINIMUM PRIORITIES AND STANDARDS.—

21 Such priorities and performance standards shall, at  
22 a minimum, include priorities and standards relating  
23 to efficiency, outcome, output, and other types of ap-  
24 plicable measures.

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

4 (1) The Automated Commercial Environment.

5 (2) Each of the priority trade issues described  
6 in paragraph (3)(B)(ii) of section 2(d) of the Act of  
7 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
8 U.S.C. 2072(d)), as added by section 111(a) of this  
9 Act.

10 (3) The Centers of Excellence and Expertise de-  
11 scribed in section 110 of this Act.

12 (4) Drawback for exported merchandise under  
13 section 313 of the Tariff Act of 1930 (19 U.S.C.  
14 1313), as amended by section 906 of this Act.

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

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

22 (7) The expedited clearance of cargo.

23 (8) The issuance of regulations and rulings.

24 (9) The issuance of Regulatory Audit Reports.

25 (c) CONSULTATIONS AND NOTIFICATION.—

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

4           (2) NOTIFICATION.—The Commissioner shall  
5           notify the Committee on Finance of the Senate and  
6           the Committee on Ways and Means of the House of  
7           Representatives of any changes to the priorities re-  
8           ferred to in subsection (a) not later than 30 days be-  
9           fore such changes are to take effect.

10 **SEC. 104. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**  
11                           **TO CLASSIFY AND APPRAISE IMPORTED AR-**  
12                           **TICLES, TO IMPROVE TRADE ENFORCEMENT**  
13                           **EFFORTS, AND TO OTHERWISE FACILITATE**  
14                           **LEGITIMATE INTERNATIONAL TRADE.**

15           (a) IN GENERAL.—

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

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

24                           (B) improve the trade enforcement efforts  
25                           of U.S. Customs and Border Protection per-

1           sonnel and U.S. Immigration and Customs En-  
2           forcement personnel; and

3                   (C) otherwise improve the ability and effec-  
4           tiveness of U.S. Customs and Border Protection  
5           personnel and U.S. Immigration and Customs  
6           Enforcement personnel to facilitate legitimate  
7           international trade.

8           (b) CONTENT.—

9                   (1) CLASSIFYING AND APPRAISING IMPORTED  
10          ARTICLES.—In carrying out subsection (a)(1)(A),  
11          the Commissioner, the Director, and interested par-  
12          ties in the private sector selected under subsection  
13          (c) shall provide instruction and related instructional  
14          materials at each educational seminar under this  
15          section to U.S. Customs and Border Protection per-  
16          sonnel and, as appropriate, to U.S. Immigration and  
17          Customs Enforcement personnel on the following:

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

23                   (B) Reviewing the manifest and other ac-  
24                  companying documentation of an article im-  
25                  ported into the United States to determine if

1 the country of origin of the article listed in the  
2 manifest or other accompanying documentation  
3 is accurate.

4 (C) Customs valuation.

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

8 (2) TRADE ENFORCEMENT EFFORTS.—In car-  
9 rying out subsection (a)(1)(B), the Commissioner,  
10 the Director, and interested parties in the private  
11 sector selected under subsection (c) shall provide in-  
12 struction and related instructional materials at each  
13 educational seminar under this section to U.S. Cus-  
14 toms and Border Protection personnel and, as ap-  
15 propriate, to U.S. Immigration and Customs En-  
16 forcement personnel to identify opportunities to en-  
17 hance enforcement of the following:

18 (A) Collection of countervailing duties as-  
19 sessed under subtitle A of title VII of the Tariff  
20 Act of 1930 (19 U.S.C. 1671 et seq.) and anti-  
21 dumping duties assessed under subtitle B of  
22 title VII of the Tariff Act of 1930 (19 U.S.C.  
23 1673 et seq.).

24 (B) Addressing evasion of duties on im-  
25 ports of textiles.

1 (C) Protection of intellectual property  
2 rights.

3 (D) Enforcement of child labor laws.

4 (3) APPROVAL OF COMMISSIONER AND DIREC-  
5 TOR.—The instruction and related instructional ma-  
6 terials at each educational seminar under this sec-  
7 tion shall be subject to the approval of the Commis-  
8 sioner and the Director.

9 (c) SELECTION PROCESS.—

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

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

20 (A) availability and usefulness;

21 (B) the volume, value, and incidence of  
22 mislabeling or misidentification of origin of im-  
23 ported articles; and

24 (C) other appropriate criteria established  
25 by the Commissioner.

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

6           (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-  
7           TERVAILING DUTY ORDERS.—

8           (1) IN GENERAL.—The Commissioner shall give  
9           due consideration to carrying out an educational  
10          seminar under this section in whole or in part to im-  
11          prove the ability of U.S. Customs and Border Pro-  
12          tection personnel to enforce a countervailing or anti-  
13          dumping duty order issued under section 706 or 736  
14          of the Tariff Act of 1930 (19 U.S.C. 1671e or  
15          1673e) upon the request of a petitioner in an action  
16          underlying such countervailing or antidumping duty  
17          order.

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

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

1 (f) REPORTING.—Beginning September 30, 2016, the  
2 Commissioner and the Director shall submit to the Com-  
3 mittee of Finance of the Senate and the Committee of  
4 Ways and Means of the House of Representatives an an-  
5 nual report on the effectiveness of educational seminars  
6 under this section.

7 (g) DEFINITIONS.—In this section:

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

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

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

20 (4) U.S. IMMIGRATION AND CUSTOMS ENFORCE-  
21 MENT PERSONNEL.—The term “U.S. Immigration  
22 and Customs Enforcement personnel” means Home-  
23 land Security Investigations Directorate personnel  
24 and other appropriate employees of U.S. Immigra-  
25 tion and Customs Enforcement.

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

2 (a) IN GENERAL.—Not later than one year after the  
3 date of the enactment of this Act, and every 2 years there-  
4 after, the Commissioner and the Director of U.S. Immi-  
5 gration and Customs Enforcement shall jointly develop  
6 and submit to the Committee on Finance of the Senate  
7 and the Committee on Ways and Means of the House of  
8 Representatives, a joint strategic plan.

9 (b) CONTENTS.—The joint strategic plan required  
10 under this section shall be comprised of a comprehensive  
11 multi-year plan for trade enforcement and trade facilita-  
12 tion, and shall include—

13 (1) a summary of actions taken during the 2-  
14 year period preceding the submission of the plan to  
15 improve trade enforcement and trade facilitation, in-  
16 cluding a description and analysis of specific per-  
17 formance measures to evaluate the progress of U.S.  
18 Customs and Border Protection and U.S. Immigra-  
19 tion and Customs Enforcement in meeting each such  
20 responsibility;

21 (2) a statement of objectives and plans for fur-  
22 ther improving trade enforcement and trade facilita-  
23 tion;

24 (3) a specific identification of the priority trade  
25 issues described in paragraph (3)(B)(ii) of section  
26 2(d) of the Act of March 3, 1927 (44 Stat. 1381,

1 chapter 348; 19 U.S.C. 2072(d)), as added by sec-  
2 tion 111(a) of this Act, that can be addressed in  
3 order to enhance trade enforcement and trade facili-  
4 tation, and a description of strategies and plans for  
5 addressing each such issue, including—

6 (A) a description of the targeting meth-  
7 odologies used for enforcement activities with  
8 respect to each such issue;

9 (B) recommendations for improving such  
10 enforcement activities; and

11 (C) a description of the implementation of  
12 previous recommendations for improving such  
13 enforcement activities;

14 (4) a description of efforts made to improve  
15 consultation and coordination among and within  
16 Federal agencies, and in particular between U.S.  
17 Customs and Border Protection and U.S. Immigra-  
18 tion and Customs Enforcement, regarding trade en-  
19 forcement and trade facilitation;

20 (5) a description of the training that has oc-  
21 curred to date within U.S. Customs and Border Pro-  
22 tection and U.S. Immigration and Customs Enforce-  
23 ment to improve trade enforcement and trade facili-  
24 tation, including training under section 104 of this  
25 Act;

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

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

9           (8) a specific identification of any domestic or  
10 international best practices that may further im-  
11 prove trade enforcement and trade facilitation;

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

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

18 (c) CONSULTATIONS.—

19           (1) IN GENERAL.—In developing the joint stra-  
20 tegic plan required under this section, the Commis-  
21 sioner and the Director shall consult with—

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

24                   (i) the Department of the Treasury;

25                   (ii) the Department of Agriculture;

- 1 (iii) the Department of Commerce;  
2 (iv) the Department of Justice;  
3 (v) the Department of the Interior;  
4 (vi) the Department of Health and  
5 Human Services;  
6 (vii) the Food and Drug Administra-  
7 tion;  
8 (viii) the Consumer Product Safety  
9 Commission; and  
10 (ix) the Office of the United States  
11 Trade Representative; and  
12 (B) the Commercial Customs Operations  
13 Advisory Committee established by section 109  
14 of this Act.
- 15 (2) OTHER CONSULTATIONS.—In developing  
16 the joint strategic plan required under this section,  
17 the Commissioner and the Director shall seek to  
18 consult with—
- 19 (A) appropriate officials from relevant for-  
20 eign law enforcement agencies and international  
21 organizations, including the World Customs Or-  
22 ganization; and  
23 (B) interested parties in the private sector.

1 (d) FORM OF PLAN.—The plan required by sub-  
2 section (a) shall be submitted in unclassified form, but  
3 may include a classified annex.

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

5 (a) FUNDING.—Section 13031(f)(4)(B) of the Con-  
6 solidated Omnibus Budget Reconciliation Act of 1985 (19  
7 U.S.C. 58c(f)(4)(B)) is amended—

8 (1) by striking “2003 through 2005” and in-  
9 serting “2016 through 2018”;

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

13 (3) by striking “for the development” and in-  
14 serting “to complete the development and implemen-  
15 tation”.

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

19 “(3) REPORT.—

20 “(A) IN GENERAL.—Not later than De-  
21 cember 31, 2016, the Commissioner responsible  
22 for U.S. Customs and Border Protection shall  
23 submit to the Committee on Appropriations and  
24 the Committee on Finance of the Senate and  
25 the Committee on Appropriations and the Com-

1           mittee on Ways and Means of the House of  
2           Representatives a report detailing—

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

18                   “(ii) U.S. Customs and Border Pro-  
19                   tection’s remaining priorities for processing  
20                   entry summary data elements, cargo mani-  
21                   fest data elements, cargo financial data  
22                   elements, and export elements in the Auto-  
23                   mated Commercial Environment computer  
24                   system, and the objectives and plans for  
25                   implementing these remaining priorities;

1           “(iii) the components of the National  
2           Customs Automation Program specified in  
3           subsection (a)(2) of section 411 of the  
4           Tariff Act of 1930 that have not been im-  
5           plemented; and

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

12          “(B) UPDATE OF REPORTS.—Not later  
13          than September 30, 2017, the Commissioner  
14          shall submit to the Committee on Appropria-  
15          tions and the Committee on Finance of the  
16          Senate and the Committee on Appropriations  
17          and the Committee on Ways and Means of the  
18          House of Representatives an updated report ad-  
19          dressing each of the matters referred to in sub-  
20          paragraph (A), and—

21                 “(i) evaluating the effectiveness of the  
22                 implementation of the Automated Commer-  
23                 cial Environment computer system; and

24                 “(ii) detailing the percentage of trade  
25                 processed in the Automated Commercial

1 Environment every month since September  
2 30, 2016.”.

3 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
4 PORT.—Not later than December 31, 2017, the Comp-  
5 troller General of the United States shall submit to the  
6 Committee on Appropriations and the Committee on Fi-  
7 nance of the Senate and the Committee on Appropriations  
8 and the Committee on Ways and Means of the House of  
9 Representatives a report—

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

13 (2) assessing the potential cost savings to the  
14 United States Government and importers and ex-  
15 porters and the potential benefits to enforcement of  
16 the customs and trade laws of the United States if  
17 the elements identified in clauses (i) through (iv) of  
18 section 311(b)(3)(A) of the Customs Border Secu-  
19 rity Act of 2002, as amended by subsection (b) of  
20 this section, are implemented.

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

22 (a) INFORMATION TECHNOLOGY INFRASTRUC-  
23 TURE.—Section 411(d) of the Tariff Act of 1930 (19  
24 U.S.C. 1411(d)) is amended—

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

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

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

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

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

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

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

1           Border Protection the admissibility criteria  
2           and data elements required by the agency  
3           to authorize the release of cargo by U.S.  
4           Customs and Border Protection for incor-  
5           poration into the operational functionality  
6           of the Automated Commercial Environ-  
7           ment computer system authorized under  
8           section 13031(f)(4) of the Consolidated  
9           Omnibus Budget and Reconciliation Act of  
10          1985 (19 U.S.C. 58c(f)(4)); and

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

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

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



1 Partnership Against Terrorism established under subtitle  
2 B of title II of the Security and Accountability for Every  
3 Port Act of 2006 (6 U.S.C. 961 et seq.), to seek to ensure  
4 the compatibility of the partnership programs of that  
5 country with the partnership programs of U.S. Customs  
6 and Border Protection to enhance trade facilitation and  
7 trade enforcement.

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

10 (a) ESTABLISHMENT.—Not later than the date that  
11 is 60 days after the date of the enactment of this Act,  
12 the Secretary of the Treasury and the Secretary of Home-  
13 land Security shall jointly establish a Commercial Customs  
14 Operations Advisory Committee (in this section referred  
15 to as the “Advisory Committee”).

16 (b) MEMBERSHIP.—

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

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

21 (B) the Assistant Secretary for Tax Policy  
22 of the Department of the Treasury and the  
23 Commissioner, who shall jointly co-chair meet-  
24 ings of the Advisory Committee; and

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

6 (2) APPOINTMENT.—

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

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

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

20 (ii) without regard to political affili-  
21 ation.

22 (C) TERMS.—Each individual appointed to  
23 the Advisory Committee under this paragraph  
24 shall be appointed for a term of not more than  
25 3 years, and may be reappointed to subsequent

1 terms, but may not serve more than 2 terms se-  
2 quentially.

3 (3) TRANSFER OF MEMBERSHIP.—The Sec-  
4 retary of the Treasury and the Secretary of Home-  
5 land Security may transfer members serving on the  
6 Advisory Committee on Commercial Operations of  
7 the United States Customs Service established under  
8 section 9503(c) of the Omnibus Budget Reconcili-  
9 ation Act of 1987 (19 U.S.C. 2071 note) on the day  
10 before the date of the enactment of this Act to the  
11 Advisory Committee established under subsection  
12 (a).

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

15 (1) advise the Secretary of the Treasury and  
16 the Secretary of Homeland Security on all matters  
17 involving the commercial operations of U.S. Customs  
18 and Border Protection, including advising with re-  
19 spect to significant changes that are proposed with  
20 respect to regulations, policies, or practices of U.S.  
21 Customs and Border Protection;

22 (2) provide recommendations to the Secretary  
23 of the Treasury and the Secretary of Homeland Se-  
24 curity on improvements to the commercial operations  
25 of U.S. Customs and Border Protection;

1           (3) collaborate in developing the agenda for Ad-  
2       visory Committee meetings; and

3           (4) perform such other functions relating to the  
4       commercial operations of U.S. Customs and Border  
5       Protection as prescribed by law or as the Secretary  
6       of the Treasury and the Secretary of Homeland Se-  
7       curity jointly direct.

8       (d) MEETINGS.—

9           (1) IN GENERAL.—The Advisory Committee  
10       shall meet at the call of the Secretary of the Treas-  
11       ury and the Secretary of Homeland Security, or at  
12       the call of not less than two-thirds of the member-  
13       ship of the Advisory Committee. The Advisory Com-  
14       mittee shall meet at least 4 times each calendar  
15       year.

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

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

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

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

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

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

17 (g) CONFORMING AMENDMENT.—

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

23 (2) REFERENCE.—Any reference in law to the  
24 Advisory Committee on Commercial Operations of  
25 the United States Customs Service established under

1 section 9503(c) of the Omnibus Budget Reconcili-  
2 ation Act of 1987 (19 U.S.C. 2071 note) made on  
3 or after the date on which the Advisory Committee  
4 is established under subsection (a), shall be deemed  
5 a reference to the Commercial Customs Operations  
6 Advisory Committee established under subsection  
7 (a).

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

9 (a) IN GENERAL.—The Commissioner shall, in con-  
10 sultation with the Committee on Finance of the Senate,  
11 the Committee on Ways and Means of the House of Rep-  
12 resentatives, and the Commercial Customs Operations Ad-  
13 visory Committee established by section 109 of this Act,  
14 develop and implement Centers of Excellence and Exper-  
15 tise throughout U.S. Customs and Border Protection  
16 that—

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

23 (2) improve enforcement efforts, including en-  
24 forcement of priority trade issues described in sub-  
25 paragraph (B)(ii) of section 2(d)(3) of the Act of

1 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
2 U.S.C. 2072(d)), as added by section 111(a) of this  
3 Act, in specific industry sectors through the applica-  
4 tion of targeting information from the Commercial  
5 Targeting Division established under subparagraph  
6 (A) of such section 2(d)(3) and from other means of  
7 verification;

8 (3) build upon the expertise of U.S. Customs  
9 and Border Protection in particular industry oper-  
10 ations, supply chains, and compliance requirements;

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

14 (5) centralize the trade enforcement and trade  
15 facilitation efforts of U.S. Customs and Border Pro-  
16 tection;

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

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

23 (8) develop applicable performance measure-  
24 ments to meet internal efficiency and effectiveness  
25 goals; and

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

3           (b) REPORT.—Not later than December 31, 2016,  
4           the Commissioner shall submit to the Committee on Fi-  
5           nance of the Senate and the Committee on Ways and  
6           Means of the House of Representatives a report describ-  
7           ing—

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

11          (2) the effectiveness of each such Center of Ex-  
12          cellence and Expertise in improving enforcement ef-  
13          forts, including enforcement of priority trade issues,  
14          and facilitating legitimate trade;

15          (3) the quantitative and qualitative benefits of  
16          each such Center of Excellence and Expertise to the  
17          trade community, including through fostering part-  
18          nerships through the expansion of trade programs  
19          such as the Importer Self Assessment program and  
20          other trusted partner programs;

21          (4) all applicable performance measurements  
22          with respect to each such Center of Excellence and  
23          Expertise, including performance measures with re-  
24          spect to meeting internal efficiency and effectiveness  
25          goals;

1           (5) the performance of each such Center of Ex-  
 2           cellence and Expertise in increasing the accuracy  
 3           and completeness of data with respect to inter-  
 4           national trade and facilitating a more efficient flow  
 5           of information between Federal agencies; and

6           (6) any planned changes in the number, scope,  
 7           functions or any other aspect of the Centers of Ex-  
 8           cellence and Expertise developed and implemented  
 9           under subsection (a).

10 **SEC. 111. COMMERCIAL TARGETING DIVISION AND NA-**  
 11 **TIONAL TARGETING AND ANALYSIS GROUPS.**

12           (a) IN GENERAL.—Section 2(d) of the Act of March  
 13 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d))  
 14 is amended by adding at the end the following:

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

17           “(A) ESTABLISHMENT OF COMMERCIAL  
 18           TARGETING DIVISION.—

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

23           “(ii) COMPOSITION.—The Commercial  
 24           Targeting Division shall be composed of—

1           “(I) headquarters personnel led  
2           by an Executive Director, who shall  
3           report to the Assistant Commissioner  
4           for Trade; and

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

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

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

17                 “(II) to issuing Trade Alerts de-  
18                 scribed in subparagraph (D).

19          “(B) NATIONAL TARGETING AND ANALYSIS  
20          GROUPS.—

21                 “(i) IN GENERAL.—A National Tar-  
22                 geting and Analysis Group referred to in  
23                 subparagraph (A)(ii)(II) shall, at a min-  
24                 imum, be established for each priority  
25                 trade issue described in clause (ii).

1 “(ii) PRIORITY TRADE ISSUES.—

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

5 “(aa) Agriculture programs.

6 “(bb) Antidumping and  
7 countervailing duties.

8 “(cc) Import safety.

9 “(dd) Intellectual property  
10 rights.

11 “(ee) Revenue.

12 “(ff) Textiles and wearing  
13 apparel.

14 “(gg) Trade agreements and  
15 preference programs.

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

22 “(aa) determines it nec-  
23 essary and appropriate to do so;

24 “(bb) submits to the Com-  
25 mittee on Finance of the Senate

1 and the Committee on Ways and  
2 Means of the House of Rep-  
3 resentatives a summary of pro-  
4 posals to consolidate, eliminate,  
5 or otherwise modify existing pri-  
6 ority trade issues not later than  
7 60 days before such changes are  
8 to take effect; and

9 “(cc) submits to the Com-  
10 mittee on Finance of the Senate  
11 and the Committee on Ways and  
12 Means of the House of Rep-  
13 resentatives a summary of pro-  
14 posals to establish new priority  
15 trade issues not later than 30  
16 days after such changes are to  
17 take effect.

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

21 “(I) directing the trade enforce-  
22 ment and compliance assessment ac-  
23 tivities of U.S. Customs and Border  
24 Protection that relate to the Group’s  
25 priority trade issue;

1           “(II) facilitating, promoting, and  
2           coordinating cooperation and the ex-  
3           change of information between U.S.  
4           Customs and Border Protection, U.S.  
5           Immigration and Customs Enforce-  
6           ment, and other relevant Federal de-  
7           partments and agencies regarding the  
8           Group’s priority trade issue; and

9           “(III) serving as the primary liai-  
10          son between U.S. Customs and Bor-  
11          der Protection and the public regard-  
12          ing United States Government activi-  
13          ties regarding the Group’s priority  
14          trade issue, including—

15               “(aa) providing for receipt  
16               and transmission to the appro-  
17               priate U.S. Customs and Border  
18               Protection office of allegations  
19               from interested parties in the pri-  
20               vate sector of violations of cus-  
21               toms and trade laws of the  
22               United States of merchandise re-  
23               lating to the priority trade issue;

24               “(bb) obtaining information  
25               from the appropriate U.S. Cus-

1                   toms and Border Protection of-  
2                   fice on the status of any activi-  
3                   ties resulting from the submis-  
4                   sion of any such allegation, in-  
5                   cluding any decision not to pur-  
6                   sue the allegation, and providing  
7                   any such information to each in-  
8                   terested party in the private sec-  
9                   tor that submitted the allegation  
10                  every 90 days after the allegation  
11                  was received by U.S. Customs  
12                  and Border Protection unless  
13                  providing such information would  
14                  compromise an ongoing law en-  
15                  forcement investigation; and

16                         “(cc) notifying on a timely  
17                         basis each interested party in the  
18                         private sector that submitted  
19                         such allegation of any civil or  
20                         criminal actions taken by U.S.  
21                         Customs and Border Protection  
22                         or other Federal department or  
23                         agency resulting from the allega-  
24                         tion.

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

5                   “(i) establish targeted risk assessment  
6                   methodologies and standards—

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

14                           “(II) for issuing, as appropriate,  
15                           Trade Alerts described in subpara-  
16                           graph (D); and

17                          “(ii) to the extent practicable and oth-  
18                          erwise authorized by law, use, to admin-  
19                          ister the methodologies and standards es-  
20                          tablished under clause (i)—

21                           “(I) publicly available informa-  
22                           tion;

23                           “(II) information available from  
24                           the Automated Commercial System,  
25                           the Automated Commercial Environ-

1           ment computer system, the Auto-  
2           mated Targeting System, the Auto-  
3           mated Export System, the Inter-  
4           national Trade Data System, the  
5           TECS (formerly known as the ‘Treas-  
6           ury Enforcement Communications  
7           System’), the case management sys-  
8           tem of U.S. Immigration and Customs  
9           Enforcement, and any successor sys-  
10          tems; and

11                   “(III) information made available  
12                   to the Commercial Targeting Division,  
13                   including information provided by pri-  
14                   vate sector entities.

15           “(D) TRADE ALERTS.—

16                   “(i) ISSUANCE.—Based upon the ap-  
17                   plication of the targeted risk assessment  
18                   methodologies and standards established  
19                   under subparagraph (C), the Executive Di-  
20                   rector of the Commercial Targeting Divi-  
21                   sion and the Directors of the National  
22                   Targeting and Analysis Groups may issue  
23                   Trade Alerts to directors of United States  
24                   ports of entry directing further inspection,  
25                   or physical examination or testing, of spe-

1 cific merchandise to ensure compliance  
2 with all applicable customs and trade laws  
3 and regulations administered by U.S. Cus-  
4 toms and Border Protection.

5 “(ii) DETERMINATIONS NOT TO IM-  
6 PLEMENT TRADE ALERTS.—The director  
7 of a United States port of entry may deter-  
8 mine not to conduct further inspections, or  
9 physical examination or testing, pursuant  
10 to a Trade Alert issued under clause (i) if  
11 the director—

12 “(I) finds that such a determina-  
13 tion is justified by security interests;  
14 and

15 “(II) notifies the Assistant Com-  
16 missioner of the Office of Field Oper-  
17 ations and the Assistant Commis-  
18 sioner of International Trade of U.S.  
19 Customs and Border Protection of the  
20 determination and the reasons for the  
21 determination not later than 48 hours  
22 after making the determination.

23 “(iii) SUMMARY OF DETERMINATIONS  
24 NOT TO IMPLEMENT.—The Assistant Com-  
25 missioner of the Office of Field Operations

1 of U.S. Customs and Border Protection  
2 shall—

3 “(I) compile an annual public  
4 summary of all determinations by di-  
5 rectors of United States ports of entry  
6 under clause (ii) and the reasons for  
7 those determinations;

8 “(II) conduct an evaluation of  
9 the utilization of Trade Alerts issued  
10 under clause (i); and

11 “(III) submit the summary to the  
12 Committee on Finance of the Senate  
13 and the Committee on Ways and  
14 Means of the House of Representa-  
15 tives not later than December 31 of  
16 each year.

17 “(iv) INSPECTION DEFINED.—In this  
18 subparagraph, the term ‘inspection’ means  
19 the comprehensive evaluation process used  
20 by U.S. Customs and Border Protection,  
21 other than physical examination or testing,  
22 to permit the entry of merchandise into the  
23 United States, or the clearance of mer-  
24 chandise for transportation in bond

1 through the United States, for purposes  
2 of—

3 “(I) assessing duties;

4 “(II) identifying restricted or  
5 prohibited items; and

6 “(III) ensuring compliance with  
7 all applicable customs and trade laws  
8 and regulations administered by U.S.  
9 Customs and Border Protection.”.

10 (b) USE OF TRADE DATA FOR COMMERCIAL EN-  
11 FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the  
12 Trade Act of 2002 (19 U.S.C. 2071 note) is amended to  
13 read as follows:

14 “(F) The information collected pursuant to  
15 the regulations shall be used exclusively for en-  
16 suring cargo safety and security, preventing  
17 smuggling, and commercial risk assessment tar-  
18 geting, and shall not be used for any commer-  
19 cial enforcement purposes, including for deter-  
20 mining merchandise entry. Notwithstanding the  
21 preceding sentence, nothing in this section shall  
22 be treated as amending, repealing, or otherwise  
23 modifying title IV of the Tariff Act of 1930 or  
24 regulations prescribed thereunder.”.

1 **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
2 **TION AND ENFORCEMENT MEASURES.**

3 (a) IN GENERAL.—Not later than March 31, 2016,  
4 and not later than March 31 of each second year there-  
5 after, the Inspector General of the Department of the  
6 Treasury shall submit to the Committee on Finance of the  
7 Senate and the Committee on Ways and Means of the  
8 House of Representatives a report assessing, with respect  
9 to the period covered by the report, as specified in sub-  
10 section (b), the following:

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

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

20 (B) the assessment, collection, and mitiga-  
21 tion of commercial fines and penalties;

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

25 (D) the adequacy of the policies of U.S.  
26 Customs and Border Protection with respect to

1 the monitoring and tracking of merchandise  
2 transported in bond and collecting duties, as  
3 appropriate.

4 (2) The effectiveness of actions taken by U.S.  
5 Customs and Border Protection to measure account-  
6 ability and performance with respect to protection of  
7 revenue.

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

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

14 (b) PERIOD COVERED BY REPORT.—Each report re-  
15 quired by subsection (a) shall cover the period of 2 fiscal  
16 years ending on September 30 of the calendar year pre-  
17 ceding the submission of the report.

18 **SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES**  
19 **WITH RESPECT TO MERCHANDISE TRANS-**  
20 **PORTED IN BOND.**

21 (a) IN GENERAL.—Not later than December 31 of  
22 2016, 2017, and 2018, the Secretary of Homeland Secu-  
23 rity and the Secretary of the Treasury shall jointly submit  
24 to the Committee on Finance of the Senate and the Com-  
25 mittee on Ways and Means of the House of Representa-

1 tives a report on efforts undertaken by U.S. Customs and  
2 Border Protection to ensure the secure transportation of  
3 merchandise in bond through the United States and the  
4 collection of revenue owed upon the entry of such mer-  
5 chandise into the United States for consumption.

6 (b) ELEMENTS.—Each report required by subsection  
7 (a) shall include, for the fiscal year preceding the submis-  
8 sion of the report, information on—

9 (1) the overall number of entries of merchan-  
10 dise for transportation in bond through the United  
11 States;

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

16 (3) the average time taken to reconcile such  
17 records with the records at the final destination of  
18 the merchandise in the United States to demonstrate  
19 that the merchandise reaches its final destination or  
20 is reexported;

21 (4) the average time taken to transport mer-  
22 chandise in bond from the port at which the mer-  
23 chandise arrives in the United States to its final des-  
24 tination in the United States;

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

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

8           (7) the number of entries that remain  
9           unreconciled.

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

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

16           (b) REQUIREMENTS.—The Secretary shall ensure  
17 that, as part of the importer of record program, U.S. Cus-  
18 toms and Border Protection—

19           (1) develops criteria that importers must meet  
20           in order to obtain an importer of record number, in-  
21           cluding—

22           (A) criteria to ensure sufficient informa-  
23           tion is collected to allow U.S. Customs and Bor-  
24           der Protection to verify the existence of the im-

1           porter requesting the importer of record num-  
2           ber;

3           (B) criteria to ensure sufficient informa-  
4           tion is collected to allow U.S. Customs and Bor-  
5           der Protection to identify linkages or other af-  
6           filiations between importers that are requesting  
7           or have been assigned importer of record num-  
8           bers; and

9           (C) criteria to ensure sufficient informa-  
10          tion is collected to allow U.S. Customs and Bor-  
11          der Protection to identify changes in address  
12          and corporate structure of importers;

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

15          (3) maintains a centralized database of im-  
16          porter of record numbers, including a history of im-  
17          porter of record numbers associated with each im-  
18          porter, and the information described in subpara-  
19          graphs (A), (B), and (C) of paragraph (1);

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

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

24          (c) REPORT.—Not later than one year after the date  
25 of the enactment of this Act, the Secretary shall submit

1 to the Committee on Finance of the Senate and the Com-  
2 mittee on Ways and Means of the House of Representa-  
3 tives a report on the importer of record program estab-  
4 lished under subsection (a).

5 (d) NUMBER DEFINED.—In this subsection, the term  
6 “number”, with respect to an importer of record, means  
7 a filing identification number described in section 24.5 of  
8 title 19, Code of Federal Regulations (or any cor-  
9 responding similar regulation) that fully supports the re-  
10 quirements of subsection (b) with respect to the collection  
11 and maintenance of information.

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

13 (a) IN GENERAL.—Not later than the date that is  
14 180 days after the date of the enactment of this Act, the  
15 Commissioner shall establish a new importer program that  
16 directs U.S. Customs and Border Protection to adjust  
17 bond amounts for new importers based on the level of risk  
18 assessed by U.S. Customs and Border Protection for pro-  
19 tection of revenue of the Federal Government.

20 (b) REQUIREMENTS.—The Commissioner shall en-  
21 sure that, as part of the new importer program established  
22 under subsection (a), U.S. Customs and Border Protec-  
23 tion—

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

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

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

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

10          (3) develops procedures to ensure increased  
11          oversight of imported products of new importers re-  
12          lating to the enforcement of the priority trade issues  
13          described in paragraph (3)(B)(ii) of section 2(d) of  
14          the Act of March 3, 1927 (44 Stat. 1381, chapter  
15          348; 19 U.S.C. 2072(d)), as added by section 111(a)  
16          of this Act;

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

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

1 **TITLE II—IMPORT HEALTH AND**  
2 **SAFETY**

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

4 (a) ESTABLISHMENT.—There is established an inter-  
5 agency Import Safety Working Group.

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

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

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

13 (3) The Secretary of the Treasury.

14 (4) The Secretary of Commerce.

15 (5) The Secretary of Agriculture.

16 (6) The United States Trade Representative.

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

19 (8) The Commissioner of Food and Drugs.

20 (9) The Commissioner responsible for U.S. Cus-  
21 toms and Border Protection.

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

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

1           (12) The head of any other Federal agency des-  
2           ignated by the President to participate in the inter-  
3           agency Import Safety Working Group, as appro-  
4           priate.

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

7           (1) consulting on the development of the joint  
8           import safety rapid response plan required by sec-  
9           tion 202 of this Act;

10          (2) periodically evaluating the adequacy of the  
11          plans, practices, and resources of the Federal Gov-  
12          ernment dedicated to ensuring the safety of mer-  
13          chandise imported in the United States and the ex-  
14          peditious entry of such merchandise, including—

15                (A) minimizing the duplication of efforts  
16                among agencies the heads of which are mem-  
17                bers of the interagency Import Safety Working  
18                Group and ensuring the compatibility of the  
19                policies and regulations of those agencies; and

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

1           (3) reviewing the engagement and cooperation  
2 of foreign governments and foreign manufacturers in  
3 facilitating the inspection and certification, as appro-  
4 priate, of such merchandise to be imported into the  
5 United States and the facilities producing such mer-  
6 chandise to ensure the safety of the merchandise  
7 and the expeditious entry of the merchandise into  
8 the United States;

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

14           (A) the inspection of manufacturing facili-  
15 ties in foreign countries;

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

20           (C) the protection of the international sup-  
21 ply chain (as defined in section 2 of the Secu-  
22 rity and Accountability For Every Port Act of  
23 2006 (6 U.S.C. 901));

24           (5) identifying best practices to assist Federal,  
25 State, and local governments and agencies, and port

1 authorities, to improve communication and coordina-  
2 tion among such agencies and authorities with re-  
3 spect to ensuring the safety of merchandise imported  
4 into the United States and the expeditious entry of  
5 such merchandise; and

6 (6) otherwise identifying appropriate steps to  
7 increase the accountability of United States import-  
8 ers and the engagement of foreign government agen-  
9 cies with respect to ensuring the safety of merchan-  
10 dise imported into the United States and the expedi-  
11 tious entry of such merchandise.

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

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

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

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

4           (b) CONTENTS.—The joint import safety rapid re-  
5 sponse plan shall address—

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

10           (2) the protocols and practices to be used by  
11 U.S. Customs and Border Protection when taking  
12 action in response to, and coordinating Federal re-  
13 sponses to, such an incident;

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

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

24           (c) UPDATES OF PLAN.—The Secretary of Homeland  
25 Security shall review and update the joint import safety

1 rapid response plan, as appropriate, after conducting exer-  
2 cises under subsection (d).

3 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

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

12 (2) REQUIREMENTS FOR EXERCISES.—In con-  
13 ducting exercises under paragraph (1), the Secretary  
14 and the Commissioner shall—

15 (A) make allowance for the resources,  
16 needs, and constraints of United States ports of  
17 entry of different sizes in representative geo-  
18 graphic locations across the United States;

19 (B) base evaluations on current risk as-  
20 sessments of merchandise entering the United  
21 States at representative United States ports of  
22 entry located across the United States;

23 (C) ensure that such exercises are con-  
24 ducted in a manner consistent with the Na-  
25 tional Incident Management System, the Na-

1           tional Response Plan, the National Infrastruc-  
2           ture Protection Plan, the National Prepared-  
3           ness Guidelines, the Maritime Transportation  
4           System Security Plan, and other such national  
5           initiatives of the Department of Homeland Se-  
6           curity, as appropriate; and

7           (D) develop metrics with respect to the re-  
8           sumption of the entry of merchandise into the  
9           United States after an incident described in  
10          subsection (a)(1).

11          (3) REQUIREMENTS FOR TESTING AND EVALUA-  
12          TION.—The Secretary and the Commissioner shall  
13          ensure that the testing and evaluation carried out in  
14          conducting exercises under paragraph (1)—

15               (A) are performed using clear and objec-  
16               tive performance measures; and

17               (B) result in the identification of specific  
18               recommendations or best practices for respond-  
19               ing to an incident described in subsection  
20               (a)(1).

21          (4) DISSEMINATION OF RECOMMENDATIONS  
22          AND BEST PRACTICES.—The Secretary and the  
23          Commissioner shall—

24               (A) share the recommendations or best  
25               practices identified under paragraph (3)(B)

1 among the members of the interagency Import  
2 Safety Working Group and with, as appro-  
3 priate—

4 (i) State, local, and tribal govern-  
5 ments;

6 (ii) foreign governments; and

7 (iii) private sector entities; and

8 (B) use such recommendations and best  
9 practices to update the joint import safety rapid  
10 response plan.

11 **SEC. 203. TRAINING.**

12 The Commissioner shall ensure that personnel of  
13 U.S. Customs and Border Protection assigned to United  
14 States ports of entry are trained to effectively administer  
15 the provisions of this title and to otherwise assist in ensur-  
16 ing the safety of merchandise imported into the United  
17 States and the expeditious entry of such merchandise.

18 **TITLE III—IMPORT-RELATED**  
19 **PROTECTION OF INTELLEC-**  
20 **TUAL PROPERTY RIGHTS**

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

23 In this title, the term “intellectual property rights”  
24 refers to copyrights, trademarks, and other forms of intel-  
25 lectual property rights that are enforced by U.S. Customs

1 and Border Protection or U.S. Immigration and Customs  
2 Enforcement.

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

5 (a) IN GENERAL.—The Tariff Act of 1930 is amend-  
6 ed by inserting after section 628 (19 U.S.C. 1628) the  
7 following new section:

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

10 “(a) IN GENERAL.—Subject to subsections (c) and  
11 (d), if the Commissioner responsible for U.S. Customs and  
12 Border Protection suspects that merchandise is being im-  
13 ported into the United States in violation of section 526  
14 of this Act or section 602, 1201(a)(2), or 1201(b)(1) of  
15 title 17, United States Code, and determines that the ex-  
16 amination or testing of the merchandise by a person de-  
17 scribed in subsection (b) would assist the Commissioner  
18 in determining if the merchandise is being imported in vio-  
19 lation of that section, the Commissioner, to permit the  
20 person to conduct the examination and testing—

21 “(1) shall provide to the person information  
22 that appears on the merchandise and its packaging  
23 and labels, including unredacted images of the mer-  
24 chandise and its packaging and labels; and

1           “(2) may, subject to any applicable bonding re-  
2           quirements, provide to the person unredacted sam-  
3           ples of the merchandise.

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

6           “(1) in the case of merchandise suspected of  
7           being imported in violation of section 526, the owner  
8           of the trademark suspected of being copied or simu-  
9           lated by the merchandise;

10           “(2) in the case of merchandise suspected of  
11           being imported in violation of section 602 of title 17,  
12           United States Code, the owner of the copyright sus-  
13           pected of being infringed by the merchandise;

14           “(3) in the case of merchandise suspected of  
15           being primarily designed or produced for the pur-  
16           pose of circumventing a technological measure that  
17           effectively controls access to a work protected under  
18           that title, and being imported in violation of section  
19           1201(a)(2) of that title, the owner of a copyright in  
20           the work; and

21           “(4) in the case of merchandise suspected of  
22           being primarily designed or produced for the pur-  
23           pose of circumventing protection afforded by a tech-  
24           nological measure that effectively protects a right of  
25           an owner of a copyright in a work or a portion of

1 a work, and being imported in violation of section  
2 1201(b)(1) of that title, the owner of the copyright.

3 “(c) LIMITATION.—Subsection (a) applies only with  
4 respect to merchandise suspected of infringing a trade-  
5 mark or copyright that is recorded with U.S. Customs and  
6 Border Protection.

7 “(d) EXCEPTION.—The Commissioner may not pro-  
8 vide under subsection (a) information, photographs, or  
9 samples to a person described in subsection (b) if pro-  
10 viding such information, photographs, or samples would  
11 compromise an ongoing law enforcement investigation or  
12 national security.”.

13 (b) TERMINATION OF PREVIOUS AUTHORITY.—Not-  
14 withstanding paragraph (2) of section 818(g) of Public  
15 Law 112–81 (125 Stat. 1496), paragraph (1) of that sec-  
16 tion shall have no force or effect on or after the date of  
17 the enactment of this Act.

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

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

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

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

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

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

7           (b) NOTIFICATION OF PERSONS INJURED.—

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

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

1           (3) REGULATIONS.—Not later than one year  
2           after the date of the enactment of this Act, the Sec-  
3           retary of the Treasury shall prescribe regulations es-  
4           tablishing procedures that implement this sub-  
5           section.

6 **SEC. 304. ENFORCEMENT BY U.S. CUSTOMS AND BORDER**  
7                           **PROTECTION OF WORKS FOR WHICH COPY-**  
8                           **RIGHT REGISTRATION IS PENDING.**

9           Not later than the date that is 180 days after the  
10          date of the enactment of this Act, the Secretary of Home-  
11          land Security shall authorize a process pursuant to which  
12          the Commissioner shall enforce a copyright for which the  
13          owner has submitted an application for registration under  
14          title 17, United States Code, with the United States Copy-  
15          right Office, to the same extent and in the same manner  
16          as if the copyright were registered with the Copyright Of-  
17          fice, including by sharing information, images, and sam-  
18          ples of merchandise suspected of infringing the copyright  
19          under section 628A of the Tariff Act of 1930, as added  
20          by section 302.

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

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

1           (1) establish within U.S. Immigration and Cus-  
2           toms Enforcement a National Intellectual Property  
3           Rights Coordination Center; and

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

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

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

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

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

19                (B) to develop metrics to assess whether  
20                the training improved enforcement of intellec-  
21                tual property rights;

22          (3) coordinate, with U.S. Customs and Border  
23          Protection, activities conducted by the United States  
24          to prevent the importation or exportation of mer-  
25          chandise that infringes intellectual property rights;

1           (4) support the international interdiction of  
2 merchandise destined for the United States that in-  
3 fringes intellectual property rights;

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

8           (6) develop a means to receive and organize in-  
9 formation regarding infringement of intellectual  
10 property rights from such agencies and other  
11 sources;

12           (7) disseminate information regarding infringe-  
13 ment of intellectual property rights to other Federal  
14 agencies, as appropriate;

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

19           (9) coordinate with the offices of United States  
20 attorneys in order to develop expertise in, and assist  
21 with the investigation and prosecution of, crimes re-  
22 lating to the infringement of intellectual property  
23 rights; and

24           (10) carry out such other duties as the Sec-  
25 retary of Homeland Security may assign.

1 (c) COORDINATION WITH OTHER AGENCIES.—In  
2 carrying out the duties described in subsection (b), the As-  
3 sistant Director of the National Intellectual Property  
4 Rights Coordination Center shall coordinate with—

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

19 (d) PRIVATE SECTOR OUTREACH.—

- 20 (1) IN GENERAL.—The Assistant Director of  
21 the National Intellectual Property Rights Coordina-  
22 tion Center shall work with U.S. Customs and Bor-  
23 der Protection and other Federal agencies to con-  
24 duct outreach to private sector entities in order to

1 determine trends in and methods of infringing intel-  
2 lectual property rights.

3 (2) INFORMATION SHARING.—The Assistant Di-  
4 rector shall share information and best practices  
5 with respect to the enforcement of intellectual prop-  
6 erty rights with private sector entities, as appro-  
7 priate, in order to coordinate public and private sec-  
8 tor efforts to combat the infringement of intellectual  
9 property rights.

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

12 The Commissioner and the Director of U.S. Immigra-  
13 tion and Customs Enforcement shall include in the joint  
14 strategic plan required by section 105 of this Act—

15 (1) a description of the efforts of the Depart-  
16 ment of Homeland Security to enforce intellectual  
17 property rights;

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

24 (3) a recommendation for the optimal allocation  
25 of personnel, resources, and technology to ensure

1 that U.S. Customs and Border Protection and U.S.  
2 Immigration and Customs Enforcement are ade-  
3 quately enforcing intellectual property rights.

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

6 (a) PERSONNEL OF U.S. CUSTOMS AND BORDER  
7 PROTECTION.—The Commissioner and the Director of  
8 U.S. Immigration and Customs Enforcement shall ensure  
9 that sufficient personnel are assigned throughout U.S.  
10 Customs and Border Protection and U.S. Immigration  
11 and Customs Enforcement, respectively, who have respon-  
12 sibility for preventing the importation into the United  
13 States of merchandise that infringes intellectual property  
14 rights.

15 (b) STAFFING OF NATIONAL INTELLECTUAL PROP-  
16 erty Rights Coordination Center.—The Commis-  
17 sioner shall—

18 (1) assign not fewer than 3 full-time employees  
19 of U.S. Customs and Border Protection to the Na-  
20 tional Intellectual Property Rights Coordination  
21 Center established under section 305 of this Act;  
22 and

23 (2) ensure that sufficient personnel are as-  
24 signed to United States ports of entry to carry out  
25 the directives of the Center.

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

3 (a) TRAINING.—The Commissioner shall ensure that  
4 officers of U.S. Customs and Border Protection are  
5 trained to effectively detect and identify merchandise des-  
6 tined for the United States that infringes intellectual  
7 property rights, including through the use of technologies  
8 identified under subsection (c).

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

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

18 (1) technologies with the cost-effective capa-  
19 bility to detect and identify merchandise at United  
20 States ports of entry that infringes intellectual prop-  
21 erty rights; and

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

25 (d) DONATIONS OF TECHNOLOGY.—Not later than  
26 the date that is 180 days after the date of the enactment

1 of this Act, the Commissioner shall prescribe regulations  
2 to enable U.S. Customs and Border Protection to receive  
3 donations of hardware, software, equipment, and similar  
4 technologies, and to accept training and other support  
5 services, from private sector entities, for the purpose of  
6 enforcing intellectual property rights.

7 **SEC. 309. INTERNATIONAL COOPERATION AND INFORMA-**  
8 **TION SHARING.**

9 (a) COOPERATION.—The Secretary of Homeland Se-  
10 curity shall coordinate with the competent law enforce-  
11 ment and customs authorities of foreign countries, includ-  
12 ing by sharing information relevant to enforcement ac-  
13 tions, to enhance the efforts of the United States and such  
14 authorities to enforce intellectual property rights.

15 (b) TECHNICAL ASSISTANCE.—The Secretary of  
16 Homeland Security shall provide technical assistance to  
17 competent law enforcement and customs authorities of for-  
18 eign countries to enhance the ability of such authorities  
19 to enforce intellectual property rights.

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

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

3 Not later than June 30, 2016, and annually there-  
4 after, the Commissioner and the Director of U.S. Immi-  
5 gration and Customs Enforcement shall jointly submit to  
6 the Committee on Finance of the Senate and the Com-  
7 mittee on Ways and Means of the House of Representa-  
8 tives a report that contains the following:

9 (1) With respect to the enforcement of intellec-  
10 tual property rights, the following:

11 (A) The number of referrals from U.S.  
12 Customs and Border Protection to U.S. Immi-  
13 gration and Customs Enforcement relating to  
14 infringement of intellectual property rights dur-  
15 ing the preceding year.

16 (B) The number of investigations relating  
17 to the infringement of intellectual property  
18 rights referred by U.S. Immigration and Cus-  
19 toms Enforcement to a United States attorney  
20 for prosecution and the United States attorneys  
21 to which those investigations were referred.

22 (C) The number of such investigations ac-  
23 cepted by each such United States attorney and  
24 the status or outcome of each such investiga-  
25 tion.

1           (D) The number of such investigations  
2 that resulted in the imposition of civil or crimi-  
3 nal penalties.

4           (E) A description of the efforts of U.S.  
5 Customs and Border Protection and U.S. Immigra-  
6 tion and Customs Enforcement to improve  
7 the success rates of investigations and prosecu-  
8 tions relating to the infringement of intellectual  
9 property rights.

10          (2) An estimate of the average time required by  
11 the Office of International Trade of U.S. Customs  
12 and Border Protection to respond to a request from  
13 port personnel for advice with respect to whether  
14 merchandise detained by U.S. Customs and Border  
15 Protection infringed intellectual property rights, dis-  
16 tinguished by types of intellectual property rights in-  
17 fringed.

18          (3) A summary of the outreach efforts of U.S.  
19 Customs and Border Protection and U.S. Immigra-  
20 tion and Customs Enforcement with respect to—

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

1 (B) collaboration with private sector enti-  
2 ties—

3 (i) to identify trends in the infringe-  
4 ment of, and technologies that infringe, in-  
5 tellectual property rights;

6 (ii) to identify opportunities for en-  
7 hanced training of officers of U.S. Cus-  
8 toms and Border Protection and U.S. Im-  
9 migration and Customs Enforcement; and

10 (iii) to develop best practices to en-  
11 force intellectual property rights; and

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

15 (4) A summary of the efforts of U.S. Customs  
16 and Border Protection and U.S. Immigration and  
17 Customs Enforcement to address the challenges with  
18 respect to the enforcement of intellectual property  
19 rights presented by Internet commerce and the tran-  
20 sit of small packages and an identification of the  
21 volume, value, and type of merchandise seized for in-  
22 fringing intellectual property rights as a result of  
23 such efforts.

24 (5) A summary of training relating to the en-  
25 forcement of intellectual property rights conducted

1 under section 308 of this Act and expenditures for  
2 such training.

3 **SEC. 311. INFORMATION FOR TRAVELERS REGARDING VIO-**  
4 **LATIONS OF INTELLECTUAL PROPERTY**  
5 **RIGHTS.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-  
7 rity shall develop and carry out an educational campaign  
8 to inform travelers entering or leaving the United States  
9 about the legal, economic, and public health and safety  
10 implications of acquiring merchandise that infringes intel-  
11 lectual property rights outside the United States and im-  
12 porting such merchandise into the United States in viola-  
13 tion of United States law.

14 (b) DECLARATION FORMS.—The Commissioner shall  
15 ensure that all versions of Declaration Form 6059B of  
16 U.S. Customs and Border Protection, or a successor form,  
17 including any electronic equivalent of Declaration Form  
18 6059B or a successor form, printed or displayed on or  
19 after the date that is 30 days after the date of the enact-  
20 ment of this Act include a written warning to inform trav-  
21 elers arriving in the United States that importation of  
22 merchandise into the United States that infringes intellec-  
23 tual property rights may subject travelers to civil or crimi-  
24 nal penalties and may pose serious risks to safety or  
25 health.

1 **TITLE IV—EVASION OF ANTI-**  
2 **DUMPING AND COUNTER-**  
3 **VAILING DUTY ORDERS**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Enforcing Orders and  
6 Reducing Customs Evasion Act of 2015”.

7 **SEC. 402. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
8 **EVASION OF ANTIDUMPING AND COUNTER-**  
9 **VAILING DUTY ORDERS.**

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

13 **“SEC. 517. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
14 **EVASION OF ANTIDUMPING AND COUNTER-**  
15 **VAILING DUTY ORDERS.**

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

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

20 “(2) **COMMISSIONER.**—The term ‘Commis-  
21 sioner’ means the Commissioner responsible for U.S.  
22 Customs and Border Protection, acting pursuant to  
23 the delegation by the Secretary of the Treasury of  
24 the authority of the Secretary with respect to cus-

1       toms revenue functions (as defined in section 415 of  
2       the Homeland Security Act of 2002 (6 U.S.C. 215)).

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

6           “(A) an antidumping duty order issued  
7       under section 736;

8           “(B) a finding issued under the Anti-  
9       dumping Act, 1921; or

10          “(C) a countervailing duty order issued  
11       under section 706.

12          “(4) ENTER; ENTRY.—The terms ‘enter’ and  
13       ‘entry’ refer to the entry, or withdrawal from ware-  
14       house for consumption, of merchandise in the cus-  
15       toms territory of the United States.

16          “(5) EVASION.—

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

1           antidumping or countervailing duties being re-  
2           duced or not being applied with respect to the  
3           merchandise.

4           “(B) EXCEPTION FOR CLERICAL ERROR.—

5           “(i) IN GENERAL.—Except as pro-  
6           vided in clause (ii), the term ‘evasion’ does  
7           not include entering covered merchandise  
8           into the customs territory of the United  
9           States by means of—

10           “(I) a document or electronically  
11           transmitted data or information, writ-  
12           ten or oral statement, or act that is  
13           false as a result of a clerical error; or

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

16           “(ii) PATTERNS OF NEGLIGENT CON-  
17           DUCT.—If the Commissioner determines  
18           that a person has entered covered mer-  
19           chandise into the customs territory of the  
20           United States by means of a clerical error  
21           referred to in subclause (I) or (II) of  
22           clause (i) and that the clerical error is part  
23           of a pattern of negligent conduct on the  
24           part of that person, the Commissioner may  
25           determine, notwithstanding clause (i), that

1 the person has entered such covered mer-  
2 chandise into the customs territory of the  
3 United States through evasion.

4 “(iii) ELECTRONIC REPETITION OF  
5 ERRORS.—For purposes of clause (ii), the  
6 mere nonintentional repetition by an elec-  
7 tronic system of an initial clerical error  
8 does not constitute a pattern of negligent  
9 conduct.

10 “(iv) RULE OF CONSTRUCTION.—A  
11 determination by the Commissioner that a  
12 person has entered covered merchandise  
13 into the customs territory of the United  
14 States by means of a clerical error referred  
15 to in subclause (I) or (II) of clause (i)  
16 rather than through evasion shall not be  
17 construed to excuse that person from the  
18 payment of any duties applicable to the  
19 merchandise.

20 “(6) INTERESTED PARTY.—

21 “(A) IN GENERAL.—The term ‘interested  
22 party’ means—

23 “(i) a manufacturer, producer, or  
24 wholesaler in the United States of a do-  
25 mestic like product;

1           “(ii) a certified union or recognized  
2 union or group of workers that is rep-  
3 resentative of an industry engaged in the  
4 manufacture, production, or wholesale in  
5 the United States of a domestic like prod-  
6 uct;

7           “(iii) a trade or business association a  
8 majority of whose members manufacture,  
9 produce, or wholesale a domestic like prod-  
10 uct in the United States;

11           “(iv) an association, a majority of  
12 whose members is composed of interested  
13 parties described in clause (i), (ii), or (iii)  
14 with respect to a domestic like product;  
15 and

16           “(v) if the covered merchandise is a  
17 processed agricultural product, as defined  
18 in section 771(4)(E), a coalition or trade  
19 association that is representative of ei-  
20 ther—

21                   “(I) processors;

22                   “(II) processors and producers;

23                   or

24                   “(III) processors and growers,

1 but this clause shall cease to have effect if  
2 the United States Trade Representative  
3 notifies the administering authority and  
4 the Commission that the application of this  
5 clause is inconsistent with the international  
6 obligations of the United States.

7 “(B) DOMESTIC LIKE PRODUCT.—For pur-  
8 poses of subparagraph (A), the term ‘domestic  
9 like product’ means a product that is like, or in  
10 the absence of like, most similar in characteris-  
11 tics and uses with, covered merchandise.

12 “(b) INVESTIGATIONS.—

13 “(1) IN GENERAL.—Not later than 10 business  
14 days after receiving an allegation described in para-  
15 graph (2) or a referral described in paragraph (3),  
16 the Commissioner shall initiate an investigation if  
17 the Commissioner determines that the information  
18 provided in the allegation or the referral, as the case  
19 may be, reasonably suggests that covered merchan-  
20 dise has been entered into the customs territory of  
21 the United States through evasion.

22 “(2) ALLEGATION DESCRIBED.—An allegation  
23 described in this paragraph is an allegation that a  
24 person has entered covered merchandise into the

1 customs territory of the United States through eva-  
2 sion that is—

3 “(A) filed with the Commissioner by an in-  
4 terested party; and

5 “(B) accompanied by information reason-  
6 ably available to the party that filed the allega-  
7 tion.

8 “(3) REFERRAL DESCRIBED.—A referral de-  
9 scribed in this paragraph is information submitted  
10 to the Commissioner by any other Federal agency,  
11 including the Department of Commerce or the  
12 United States International Trade Commission, that  
13 reasonably suggests that a person has entered cov-  
14 ered merchandise into the customs territory of the  
15 United States through evasion.

16 “(4) CONSOLIDATION OF ALLEGATIONS AND  
17 REFERRALS.—

18 “(A) IN GENERAL.—The Commissioner  
19 may consolidate multiple allegations described  
20 in paragraph (2) and referrals described in  
21 paragraph (3) into a single investigation if the  
22 Commissioner determines it is appropriate to do  
23 so.

24 “(B) EFFECT ON TIMING REQUIRE-  
25 MENTS.—If the Commissioner consolidates mul-

1           tiple allegations or referrals into a single inves-  
2           tigation under subparagraph (A), the date on  
3           which the Commissioner receives the first such  
4           allegation or referral shall be used for purposes  
5           of the requirement under paragraph (1) with  
6           respect to the timing of the initiation of the in-  
7           vestigation.

8           “(5) INFORMATION-SHARING TO PROTECT  
9           HEALTH AND SAFETY.—If, during the course of con-  
10          ducting an investigation under paragraph (1) with  
11          respect to covered merchandise, the Commissioner  
12          has reason to suspect that such covered merchandise  
13          may pose a health or safety risk to consumers, the  
14          Commissioner shall provide, as appropriate, informa-  
15          tion to the appropriate Federal agencies for pur-  
16          poses of mitigating the risk.

17          “(6) TECHNICAL ASSISTANCE AND ADVICE.—

18                 “(A) IN GENERAL.—Upon request, the  
19                 Commissioner shall provide technical assistance  
20                 and advice to eligible small businesses to enable  
21                 such businesses to prepare and submit allega-  
22                 tions described in paragraph (2), except that  
23                 the Commissioner may deny assistance if the  
24                 Commissioner concludes that the allegation, if  
25                 submitted, would not lead to the initiation of an

1 investigation under this subsection or any other  
2 action to address the allegation.

3 “(B) ELIGIBLE SMALL BUSINESS DE-  
4 FINED.—

5 “(i) IN GENERAL.—In this paragraph,  
6 the term ‘eligible small business’ means  
7 any business concern that the Commis-  
8 sioner determines, due to its small size,  
9 has neither adequate internal resources nor  
10 the financial ability to obtain qualified out-  
11 side assistance in preparing and filing alle-  
12 gations described in paragraph (2).

13 “(ii) NON-REVIEWABILITY.—The de-  
14 termination of the Commissioner regarding  
15 whether a business concern is an eligible  
16 small business for purposes of this para-  
17 graph is not reviewable by any other agen-  
18 cy or by any court.

19 “(c) DETERMINATIONS.—

20 “(1) IN GENERAL.—Not later than 270 cal-  
21 endar days after the date on which the Commis-  
22 sioner initiates an investigation under subsection (b)  
23 with respect to covered merchandise, the Commis-  
24 sioner shall make a determination, based on sub-  
25 stantial evidence, with respect to whether such cov-

1       ered merchandise was entered into the customs terri-  
2       tory of the United States through evasion.

3           “(2) AUTHORITY TO COLLECT AND VERIFY AD-  
4       DITIONAL INFORMATION.—In making a determina-  
5       tion under paragraph (1) with respect to covered  
6       merchandise, the Commissioner may collect such ad-  
7       ditional information as is necessary to make the de-  
8       termination through such methods as the Commis-  
9       sioner considers appropriate, including by—

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

12           “(i) an interested party that filed an  
13       allegation under paragraph (2) of sub-  
14       section (b) that resulted in the initiation of  
15       an investigation under paragraph (1) of  
16       that subsection with respect to such cov-  
17       ered merchandise;

18           “(ii) a person alleged to have entered  
19       such covered merchandise into the customs  
20       territory of the United States through eva-  
21       sion;

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

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

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

6                   “(3) ADVERSE INFERENCE.—If the Commis-  
7                   sioner finds that a party or person described in  
8                   clause (i), (ii), or (iii) of paragraph (2)(A) has failed  
9                   to cooperate by not acting to the best of the party  
10                  or person’s ability to comply with a request for in-  
11                  formation, the Commissioner may, in making a de-  
12                  termination under paragraph (1), use an inference  
13                  that is adverse to the interests of that party or per-  
14                  son in selecting from among the facts otherwise  
15                  available to make the determination.

16                  “(4) NOTIFICATION.—Not later than 5 business  
17                  days after making a determination under paragraph  
18                  (1) with respect to covered merchandise, the Com-  
19                  missioner—

20                         “(A) shall provide to each interested party  
21                         that filed an allegation under paragraph (2) of  
22                         subsection (b) that resulted in the initiation of  
23                         an investigation under paragraph (1) of that  
24                         subsection with respect to such covered mer-  
25                         chandise a notification of the determination and

1           may, in addition, include an explanation of the  
2           basis for the determination; and

3           “(B) may provide to importers, in such  
4           manner as the Commissioner determines appro-  
5           priate, information discovered in the investiga-  
6           tion that the Commissioner determines will help  
7           educate importers with respect to importing  
8           merchandise into the customs territory of the  
9           United States in accordance with all applicable  
10          laws and regulations.

11         “(d) EFFECT OF DETERMINATIONS.—

12           “(1) IN GENERAL.—If the Commissioner makes  
13          a determination under subsection (c) that covered  
14          merchandise was entered into the customs territory  
15          of the United States through evasion, the Commis-  
16          sioner shall—

17           “(A)(i) suspend the liquidation of unliqui-  
18          dated entries of such covered merchandise that  
19          are subject to the determination and that enter  
20          on or after the date of the initiation of the in-  
21          vestigation under subsection (b) with respect to  
22          such covered merchandise and on or before the  
23          date of the determination; or

24           “(ii) if the Commissioner has already sus-  
25          pended the liquidation of such entries pursuant

1 to subsection (e)(1), continue to suspend the  
2 liquidation of such entries;

3 “(B) pursuant to the Commissioner’s au-  
4 thority under section 504(b)—

5 “(i) extend the period for liquidating  
6 unliquidated entries of such covered mer-  
7 chandise that are subject to the determina-  
8 tion and that entered before the date of  
9 the initiation of the investigation; or

10 “(ii) if the Commissioner has already  
11 extended the period for liquidating such  
12 entries pursuant to subsection (e)(1), con-  
13 tinue to extend the period for liquidating  
14 such entries;

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

18 “(i) identify the applicable anti-  
19 dumping or countervailing duty assessment  
20 rates for entries described in subpara-  
21 graphs (A) and (B); or

22 “(ii) if no such assessment rate for  
23 such an entry is available at the time,  
24 identify the applicable cash deposit rate to  
25 be applied to the entry, with the applicable

1           antidumping or countervailing duty assess-  
2           ment rate to be provided as soon as that  
3           rate becomes available;

4           “(D) require the posting of cash deposits  
5           and assess duties on entries described in sub-  
6           paragraphs (A) and (B) in accordance with the  
7           instructions received from the administering au-  
8           thority under paragraph (2); and

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

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

14                 “(ii) implementing, in consultation  
15                 with the relevant Federal agencies, rule  
16                 sets or modifications to rules sets for iden-  
17                 tifying, particularly through the Auto-  
18                 mated Targeting System and the Auto-  
19                 mated Commercial Environment author-  
20                 ized under section 13031(f) of the Consoli-  
21                 dated Omnibus Budget Reconciliation Act  
22                 of 1985 (19 U.S.C. 58c(f)), importers,  
23                 other parties, and merchandise that may  
24                 be associated with evasion;

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

8           “(iv) referring the record in whole or  
9           in part to U.S. Immigration and Customs  
10          Enforcement for civil or criminal investiga-  
11          tion.

12           “(2) COOPERATION OF ADMINISTERING AU-  
13          THORITY.—

14           “(A) IN GENERAL.—Upon receiving a noti-  
15          fication from the Commissioner under para-  
16          graph (1)(C), the administering authority shall  
17          promptly provide to the Commissioner the ap-  
18          plicable cash deposit rates and antidumping or  
19          countervailing duty assessment rates and any  
20          necessary liquidation instructions.

21           “(B) SPECIAL RULE FOR CASES IN WHICH  
22          THE PRODUCER OR EXPORTER IS UNKNOWN.—  
23          If the Commissioner and the administering au-  
24          thority are unable to determine the producer or  
25          exporter of the merchandise with respect to

1           which a notification is made under paragraph  
2           (1)(C), the administering authority shall iden-  
3           tify, as the applicable cash deposit rate or anti-  
4           dumping or countervailing duty assessment  
5           rate, the cash deposit or duty (as the case may  
6           be) in the highest amount applicable to any  
7           producer or exporter, including the ‘all-others’  
8           rate of the merchandise subject to an anti-  
9           dumping order or countervailing duty order  
10          under section 736 or 706, respectively, or a  
11          finding issued under the Antidumping Act,  
12          1921, or any administrative review conducted  
13          under section 751.

14          “(e) INTERIM MEASURES.—Not later than 90 cal-  
15          endar days after initiating an investigation under sub-  
16          section (b) with respect to covered merchandise, the Com-  
17          missioner shall decide based on the investigation if there  
18          is a reasonable suspicion that such covered merchandise  
19          was entered into the customs territory of the United  
20          States through evasion and, if the Commissioner decides  
21          there is such a reasonable suspicion, the Commissioner  
22          shall—

23                  “(1) suspend the liquidation of each unliqui-  
24          dated entry of such covered merchandise that en-

1       tered on or after the date of the initiation of the in-  
2       vestigation;

3           “(2) pursuant to the Commissioner’s authority  
4       under section 504(b), extend the period for liqui-  
5       dating each unliquidated entry of such covered mer-  
6       chandise that entered before the date of the initi-  
7       ation of the investigation; and

8           “(3) pursuant to the Commissioner’s authority  
9       under section 623, take such additional measures as  
10      the Commissioner determines necessary to protect  
11      the revenue of the United States, including requiring  
12      a single transaction bond or additional security or  
13      the posting of a cash deposit with respect to such  
14      covered merchandise.

15      “(f) ADMINISTRATIVE REVIEW.—

16           “(1) IN GENERAL.—Not later than 30 business  
17      days after the Commissioner makes a determination  
18      under subsection (c) with respect to whether covered  
19      merchandise was entered into the customs territory  
20      of the United States through evasion, a person de-  
21      termined to have entered such covered merchandise  
22      through evasion or an interested party that filed an  
23      allegation under paragraph (2) of subsection (b)  
24      that resulted in the initiation of an investigation  
25      under paragraph (1) of that subsection with respect

1 to such covered merchandise may file an appeal with  
2 the Commissioner for de novo review of the deter-  
3 mination.

4 “(2) TIMELINE FOR REVIEW.—Not later than  
5 60 business days after an appeal of a determination  
6 is filed under paragraph (1), the Commissioner shall  
7 complete the review of the determination.

8 “(g) JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—Not later than 30 business  
10 days after the Commissioner completes a review  
11 under subsection (f) of a determination under sub-  
12 section (c) with respect to whether covered merchan-  
13 dise was entered into the customs territory of the  
14 United States through evasion, a person determined  
15 to have entered such covered merchandise through  
16 evasion or an interested party that filed an allega-  
17 tion under paragraph (2) of subsection (b) that re-  
18 sulted in the initiation of an investigation under  
19 paragraph (1) of that subsection with respect to  
20 such covered merchandise may commence a civil ac-  
21 tion in the United States Court of International  
22 Trade by filing concurrently a summons and com-  
23 plaint contesting any factual findings or legal con-  
24 clusions upon which the determination is based.

1           “(2) STANDARD OF REVIEW.—In a civil action  
2           under this subsection, the court shall hold unlawful  
3           any determination, finding, or conclusion found to be  
4           arbitrary, capricious, an abuse of discretion, or oth-  
5           erwise not in accordance with law.

6           “(h) RULE OF CONSTRUCTION WITH RESPECT TO  
7           OTHER CIVIL AND CRIMINAL PROCEEDINGS AND INVES-  
8           TIGATIONS.—No determination under subsection (c) or ac-  
9           tion taken by the Commissioner pursuant to this section  
10          shall be construed to limit the authority to carry out, or  
11          the scope of, any other proceeding or investigation pursu-  
12          ant to any other provision of Federal or State law, includ-  
13          ing sections 592 and 596.”.

14          (b) CONFORMING AMENDMENT.—Section 1581(c) of  
15          title 28, United States Code, is amended by inserting “or  
16          517” after “516A”.

17          (c) EFFECTIVE DATE.—The amendments made by  
18          this section shall take effect on the date that is 180 days  
19          after the date of the enactment of this Act.

20          (d) REGULATIONS.—Not later than the date that is  
21          180 days after the date of the enactment of this Act, the  
22          Secretary of the Treasury shall prescribe such regulations  
23          as may be necessary to implement the amendments made  
24          by this section.

1 (e) APPLICATION TO CANADA AND MEXICO.—Pursu-  
2 ant to article 1902 of the North American Free Trade  
3 Agreement and section 408 of the North American Free  
4 Trade Agreement Implementation Act (19 U.S.C. 3438),  
5 the amendments made by this section shall apply with re-  
6 spect to goods from Canada and Mexico.

7 **SEC. 403. ANNUAL REPORT ON PREVENTION AND INVES-**  
8 **TIGATION OF EVASION OF ANTIDUMPING**  
9 **AND COUNTERVAILING DUTY ORDERS.**

10 (a) IN GENERAL.—Not later than January 15 of  
11 each calendar year that begins on or after the date that  
12 is 270 days after the date of the enactment of this Act,  
13 the Commissioner, in consultation with the Secretary of  
14 Commerce and the Director of U.S. Immigration and Cus-  
15 toms Enforcement, shall submit to the Committee on Fi-  
16 nance of the Senate and the Committee on Ways and  
17 Means of the House of Representatives a report on the  
18 efforts being taken to prevent and investigate the entry  
19 of covered merchandise into the customs territory of the  
20 United States through evasion.

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

23 (1) for the calendar year preceding the submis-  
24 sion of the report—

1 (A) a summary of the efforts of U.S. Cus-  
2 toms and Border Protection to prevent and in-  
3 vestigate the entry of covered merchandise into  
4 the customs territory of the United States  
5 through evasion;

6 (B) the number of allegations of evasion  
7 received under subsection (b) of section 517 of  
8 the Tariff Act of 1930, as added by section 402  
9 of this Act, and the number of such allegations  
10 resulting in investigations by U.S. Customs and  
11 Border Protection or any other agency;

12 (C) a summary of investigations initiated  
13 under subsection (b) of such section 517, in-  
14 cluding—

15 (i) the number and nature of the in-  
16 vestigations initiated, conducted, and com-  
17 pleted; and

18 (ii) the resolution of each completed  
19 investigation;

20 (D) the number of investigations initiated  
21 under that subsection not completed during the  
22 time provided for making determinations under  
23 subsection (c) of such section 517 and an expla-  
24 nation for why the investigations could not be  
25 completed on time;

1           (E) the amount of additional duties that  
2 were determined to be owed as a result of such  
3 investigations, the amount of such duties that  
4 were collected, and, for any such duties not col-  
5 lected, a description of the reasons those duties  
6 were not collected;

7           (F) with respect to each such investigation  
8 that led to the imposition of a penalty, the  
9 amount of the penalty;

10           (G) an identification of the countries of or-  
11 igin of covered merchandise determined under  
12 subsection (c) of such section 517 to be entered  
13 into the customs territory of the United States  
14 through evasion;

15           (H) the amount of antidumping and coun-  
16 tervailing duties collected as a result of any in-  
17 vestigations or other actions by U.S. Customs  
18 and Border Protection or any other agency;

19           (I) a description of the allocation of per-  
20 sonnel and other resources of U.S. Customs and  
21 Border Protection and U.S. Immigration and  
22 Customs Enforcement to prevent and inves-  
23 tigate evasion, including any assessments con-  
24 ducted regarding the allocation of such per-  
25 sonnel and resources; and

1           (J) a description of training conducted to  
2           increase expertise and effectiveness in the pre-  
3           vention and investigation of evasion; and

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

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

12                  (B) an evaluation of the efficacy of those  
13                  guidelines, policies, and practices;

14                  (C) an identification of any changes since  
15                  the last report required by this section, if any,  
16                  that have materially improved or reduced the  
17                  effectiveness of U.S. Customs and Border Pro-  
18                  tection in preventing and investigating evasion;

19                  (D) a description of the development and  
20                  implementation of policies for the application of  
21                  single entry and continuous bonds for entries of  
22                  covered merchandise to sufficiently protect the  
23                  collection of antidumping and countervailing  
24                  duties commensurate with the level of risk of  
25                  not collecting those duties;

1           (E) a description of the processes and pro-  
2           cedures for increased cooperation and informa-  
3           tion sharing with the Department of Commerce,  
4           U.S. Immigration and Customs Enforcement,  
5           and any other relevant Federal agencies to pre-  
6           vent and investigate evasion; and

7           (F) an identification of any recommended  
8           policy changes for other Federal agencies or  
9           legislative changes to improve the effectiveness  
10          of U.S. Customs and Border Protection in pre-  
11          venting and investigating evasion.

12          (c) PUBLIC SUMMARY.—The Commissioner shall  
13          make available to the public a summary of the report re-  
14          quired by subsection (a) that includes, at a minimum—

15               (1) a description of the type of merchandise  
16               with respect to which investigations were initiated  
17               under subsection (b) of section 517 of the Tariff Act  
18               of 1930, as added by section 402 of this Act;

19               (2) the amount of additional duties determined  
20               to be owed as a result of such investigations and the  
21               amount of such duties that were collected;

22               (3) an identification of the countries of origin  
23               of covered merchandise determined under subsection  
24               (c) of such section 517 to be entered into the cus-

1       toms territory of the United States through evasion;  
2       and

3               (4) a description of the types of measures used  
4       by U.S. Customs and Border Protection to prevent  
5       and investigate evasion.

6       (d) DEFINITIONS.—In this section, the terms “cov-  
7       ered merchandise” and “evasion” have the meanings given  
8       those terms in section 517(a) of the Tariff Act of 1930,  
9       as added by section 402 of this Act.

10   **TITLE       V—AMENDMENTS       TO**  
11       **ANTIDUMPING       AND       COUN-**  
12       **TERVAILING DUTY LAWS**

13   **SEC. 501. CONSEQUENCES OF FAILURE TO COOPERATE**  
14               **WITH A REQUEST FOR INFORMATION IN A**  
15               **PROCEEDING.**

16       Section 776 of the Tariff Act of 1930 (19 U.S.C.  
17   1677e) is amended—

18               (1) in subsection (b)—

19                       (A) by redesignating paragraphs (1)  
20                       through (4) as subparagraphs (A) through (D),  
21                       respectively, and by moving such subpara-  
22                       graphs, as so redesignated, 2 ems to the right;

23                       (B) by striking “ADVERSE INFERENCES.—  
24                       If” and inserting the following: “ADVERSE IN-  
25                       FERENCES.—

1 “(1) IN GENERAL.—If”;

2 (C) by striking “under this title, may use”

3 and inserting the following: “under this title—

4 “(A) may use”; and

5 (D) by striking “facts otherwise available.

6 Such adverse inference may include” and in-

7 serting the following: “facts otherwise available;

8 and

9 “(B) is not required to determine, or make

10 any adjustments to, a countervailable subsidy

11 rate or weighted average dumping margin based

12 on any assumptions about information the in-

13 terested party would have provided if the inter-

14 ested party had complied with the request for

15 information.

16 “(2) POTENTIAL SOURCES OF INFORMATION

17 FOR ADVERSE INFERENCES.—An adverse inference

18 under paragraph (1)(A) may include”;

19 (2) in subsection (c)—

20 (A) by striking “CORROBORATION OF SEC-

21 ONDARY INFORMATION.—When the” and in-

22 serting the following: “CORROBORATION OF

23 SECONDARY INFORMATION.—

24 “(1) IN GENERAL.—Except as provided in para-

25 graph (2), when the”; and

1 (B) by adding at the end the following:

2 “(2) EXCEPTION.—The administrative author-  
3 ity and the Commission shall not be required to cor-  
4 roborate any dumping margin or countervailing duty  
5 applied in a separate segment of the same pro-  
6 ceeding.”; and

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

8 “(d) SUBSIDY RATES AND DUMPING MARGINS IN  
9 ADVERSE INFERENCE DETERMINATIONS.—

10 “(1) IN GENERAL.—If the administering au-  
11 thority uses an inference that is adverse to the inter-  
12 ests of a party under subsection (b)(1)(A) in select-  
13 ing among the facts otherwise available, the admin-  
14 istering authority may—

15 “(A) in the case of a countervailing duty  
16 proceeding—

17 “(i) use a countervailable subsidy rate  
18 applied for the same or similar program in  
19 a countervailing duty proceeding involving  
20 the same country, or

21 “(ii) if there is no same or similar  
22 program, use a countervailable subsidy  
23 rate for a subsidy program from a pro-  
24 ceeding that the administering authority  
25 considers reasonable to use, and

1           “(B) in the case of an antidumping duty  
2           proceeding, use any dumping margin from any  
3           segment of the proceeding under the applicable  
4           antidumping order.

5           “(2) DISCRETION TO APPLY HIGHEST RATE.—  
6           In carrying out paragraph (1), the administering au-  
7           thority may apply any of the countervailable subsidy  
8           rates or dumping margins specified under that para-  
9           graph, including the highest such rate or margin,  
10          based on the evaluation by the administering author-  
11          ity of the situation that resulted in the admin-  
12          istering authority using an adverse inference in se-  
13          lecting among the facts otherwise available.

14          “(3) NO OBLIGATION TO MAKE CERTAIN ESTI-  
15          MATES OR ADDRESS CERTAIN CLAIMS.—If the ad-  
16          ministering authority uses an adverse inference  
17          under subsection (b)(1)(A) in selecting among the  
18          facts otherwise available, the administering authority  
19          is not required, for purposes of subsection (c) or for  
20          any other purpose—

21                 “(A) to estimate what the countervailable  
22                 subsidy rate or dumping margin would have  
23                 been if the interested party found to have failed  
24                 to cooperate under subsection (b)(1) had co-  
25                 operated, or

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

6 **SEC. 502. DEFINITION OF MATERIAL INJURY.**

7           (a) EFFECT OF PROFITABILITY OF DOMESTIC IN-  
8 DUSTRIES.—Section 771(7) of the Tariff Act of 1930 (19  
9 U.S.C. 1677(7)) is amended by adding at the end the fol-  
10 lowing:

11                   “(J) EFFECT OF PROFITABILITY.—The  
12           Commission shall not determine that there is no  
13           material injury or threat of material injury to  
14           an industry in the United States merely be-  
15           cause that industry is profitable or because the  
16           performance of that industry has recently im-  
17           proved.”.

18           (b) EVALUATION OF IMPACT ON DOMESTIC INDUS-  
19 TRY IN DETERMINATION OF MATERIAL INJURY.—Sub-  
20 clause (I) of section 771(7)(C)(iii) of the Tariff Act of  
21 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended to read as  
22 follows:

23                   “(I) actual and potential decline  
24           in output, sales, market share, gross  
25           profits, operating profits, net profits,

1 ability to service debt, productivity,  
2 return on investments, return on as-  
3 sets, and utilization of capacity.”.

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

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

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

11 (3) by striking subclause (III).

12 **SEC. 503. PARTICULAR MARKET SITUATION.**

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

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

20 (b) DEFINITION OF NORMAL VALUE.—Section  
21 773(a)(1)(B)(ii)(III) of the Tariff Act of 1930 (19 U.S.C.  
22 1677b(a)(1)(B)(ii)(III)) is amended by striking “in such  
23 other country.”.

1 (c) DEFINITION OF CONSTRUCTED VALUE.—Section  
2 773(e) of the Tariff Act of 1930 (19 U.S.C. 1677b(e))  
3 is amended—

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

6 (2) By striking the flush text at the end and in-  
7 serting the following:

8 “For purposes of paragraph (1), if a particular market  
9 situation exists such that the cost of materials and fab-  
10 rication or other processing of any kind does not accu-  
11 rately reflect the cost of production in the ordinary course  
12 of trade, the administering authority may use another cal-  
13 culation methodology under this subtitle or any other cal-  
14 culation methodology. For purposes of paragraph (1), the  
15 cost of materials shall be determined without regard to  
16 any internal tax in the exporting country imposed on such  
17 materials or their disposition that is remitted or refunded  
18 upon exportation of the subject merchandise produced  
19 from such materials.”.

20 **SEC. 504. DISTORTION OF PRICES OR COSTS.**

21 (a) INVESTIGATION OF BELOW-COST SALES.—Sec-  
22 tion 773(b)(2) of the Tariff Act of 1930 (19 U.S.C.  
23 1677b(b)(2)) is amended by striking subparagraph (A)  
24 and inserting the following:

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

3                   “(i) REVIEW.—In a review conducted  
4                   under section 751 involving a specific ex-  
5                   porter, there are reasonable grounds to be-  
6                   lieve or suspect that sales of the foreign  
7                   like product have been made at prices that  
8                   are less than the cost of production of the  
9                   product if the administering authority dis-  
10                  regarded some or all of the exporter’s sales  
11                  pursuant to paragraph (1) in the investiga-  
12                  tion or, if a review has been completed, in  
13                  the most recently completed review.

14                  “(ii) REQUESTS FOR INFORMATION.—  
15                  In an investigation initiated under section  
16                  732 or a review conducted under section  
17                  751, the administering authority shall re-  
18                  quest information necessary to calculate  
19                  the constructed value and cost of produc-  
20                  tion under subsections (e) and (f) to deter-  
21                  mine whether there are reasonable grounds  
22                  to believe or suspect that sales of the for-  
23                  eign like product have been made at prices  
24                  that represent less than the cost of produc-  
25                  tion of the product.”.

1 (b) PRICES AND COSTS IN NONMARKET ECONO-  
2 MIES.—Section 773(e) of the Tariff Act of 1930 (19  
3 U.S.C. 1677b(e)) is amended by adding at the end the  
4 following:

5 “(5) DISCRETION TO DISREGARD CERTAIN  
6 PRICE OR COST VALUES.—In valuing the factors of  
7 production under paragraph (1) for the subject mer-  
8 chandise, the administering authority may disregard  
9 price or cost values without further investigation if  
10 the administering authority has determined that  
11 broadly available export subsidies existed or par-  
12 ticular instances of subsidization occurred with re-  
13 spect to those price or cost values or if those price  
14 or cost values were subject to an antidumping  
15 order.”.

16 **SEC. 505. REDUCTION IN BURDEN ON DEPARTMENT OF**  
17 **COMMERCE BY REDUCING THE NUMBER OF**  
18 **VOLUNTARY RESPONDENTS.**

19 Section 782(a) of the Tariff Act of 1930 (19 U.S.C.  
20 1677m(a)) is amended—

21 (1) in paragraph (1), by redesignating subpara-  
22 graphs (A) and (B) as clauses (i) and (ii), respec-  
23 tively, and by moving such clauses, as so redesign-  
24 nated, 2 ems to the right;

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

5           (3) by striking “INVESTIGATIONS AND RE-  
6           VIEWS.—In” and inserting the following: “INVES-  
7           TIGATIONS AND REVIEWS.—

8           “(1) IN GENERAL.—In”;

9           (4) in paragraph (1), as designated by para-  
10          graph (3), by amending subparagraph (B), as redesi-  
11          gnated by paragraph (2), to read as follows:

12           “(B) the number of exporters or producers  
13           subject to the investigation or review is not so  
14           large that any additional individual examination  
15           of such exporters or producers would be unduly  
16           burdensome to the administering authority and  
17           inhibit the timely completion of the investiga-  
18           tion or review.”; and

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

20          “(2) DETERMINATION OF UNDULY BURDEN-  
21          SOME.—In determining if an individual examination  
22          under paragraph (1)(B) would be unduly burden-  
23          some, the administering authority may consider the  
24          following:

1           “(A) The complexity of the issues or infor-  
2 mation presented in the proceeding, including  
3 questionnaires and any responses thereto.

4           “(B) Any prior experience of the admin-  
5 istering authority in the same or similar pro-  
6 ceeding.

7           “(C) The total number of investigations  
8 under subtitle A or B and reviews under section  
9 751 being conducted by the administering au-  
10 thority as of the date of the determination.

11           “(D) Such other factors relating to the  
12 timely completion of each such investigation  
13 and review as the administering authority con-  
14 siders appropriate.”.

15 **SEC. 506. APPLICATION TO CANADA AND MEXICO.**

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

1 **TITLE VI—ADDITIONAL TRADE**  
2 **ENFORCEMENT AND INTEL-**  
3 **LECTUAL PROPERTY RIGHTS**  
4 **PROTECTION**

5 **Subtitle A—Trade Enforcement**

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

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

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

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

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

1 barriers to United States goods, services, or invest-  
2 ment.

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

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

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

23 “(C) the major barriers and trade dis-  
24 torting practices described in the most recent

1 National Trade Estimate required under section  
2 181(b);

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

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

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

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

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

21 “(A) IN GENERAL.—Not later than July  
22 31 of each calendar year that begins after the  
23 date of the enactment of the Trade Facilitation  
24 and Trade Enforcement Act of 2015, the Trade  
25 Representative shall report to the Committee on

1 Finance of the Senate and the Committee on  
2 Ways and Means of the House of Representa-  
3 tives on acts, policies, or practices of foreign  
4 governments identified as trade enforcement  
5 priorities based on the consultations under  
6 paragraph (1) and the criteria set forth in  
7 paragraph (2).

8 “(B) REPORT IN SUBSEQUENT YEARS.—

9 The Trade Representative shall include, when  
10 reporting under subparagraph (A) in any cal-  
11 endar year after the calendar year that begins  
12 after the date of the enactment of the Trade  
13 Facilitation and Trade Enforcement Act of  
14 2015, a description of actions taken to address  
15 any acts, policies, or practices of foreign gov-  
16 ernments identified as trade enforcement prior-  
17 ities under this subsection in the calendar year  
18 preceding that report and, as relevant, any year  
19 before that calendar year.

20 “(b) SEMIANNUAL ENFORCEMENT CONSULTA-

21 TIONS.—

22 “(1) IN GENERAL.—At the same time as the re-  
23 porting under subsection (a)(3), and not later than  
24 January 31 of each following year, the Trade Rep-  
25 resentative shall consult with the Committee on Fi-

1 nance of the Senate and the Committee on Ways  
2 and Means of the House of Representatives with re-  
3 spect to the identification, prioritization, investiga-  
4 tion, and resolution of acts, policies, or practices of  
5 foreign governments of concern with respect to obli-  
6 gations under the WTO Agreements or any other  
7 trade agreement to which the United States is a  
8 party, or that otherwise create or maintain trade  
9 barriers.

10 “(2) ACTS, POLICIES, OR PRACTICES OF CON-  
11 CERN.—The semiannual enforcement consultations  
12 required by paragraph (1) shall address acts, poli-  
13 cies, or practices of foreign governments that raise  
14 concerns with respect to obligations under the WTO  
15 Agreements or any other trade agreement to which  
16 the United States is a party, or otherwise create or  
17 maintain trade barriers, including—

18 “(A) engagement with relevant trading  
19 partners;

20 “(B) strategies for addressing such con-  
21 cerns;

22 “(C) availability and deployment of re-  
23 sources to be used in the investigation or reso-  
24 lution of such concerns;

1           “(D) the merits of any potential dispute  
2 resolution proceeding under the WTO Agree-  
3 ments or any other trade agreement to which  
4 the United States is a party relating to such  
5 concerns; and

6           “(E) any other aspects of such concerns.

7           “(3) ACTIVE INVESTIGATIONS.—The semi-  
8 annual enforcement consultations required by para-  
9 graph (1) shall address acts, policies, or practices  
10 that the Trade Representative is actively inves-  
11 tigating with respect to obligations under the WTO  
12 Agreements or any other trade agreement to which  
13 the United States is a party, including—

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

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

18           “(C) the merits of any potential dispute  
19 resolution proceeding under the WTO Agree-  
20 ments or any other trade agreement to which  
21 the United States is a party with respect to  
22 such acts, policies, or practices;

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

1           “(E) any other matters relating to the in-  
2           vestigation of such acts, policies, or practices.

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

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

12           “(B) the merits of such actions;

13           “(C) any prospective implementation ac-  
14           tions;

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

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

20           “(F) other issues relating to such actions.

21           “(5) ENFORCEMENT RESOURCES.—The semi-  
22           annual enforcement consultations required by para-  
23           graph (1) shall address the availability and deploy-  
24           ment of enforcement resources, resource constraints  
25           on monitoring and enforcement activities, and strat-

1       egies to address those constraints, including the use  
2       of available resources of other Federal agencies to  
3       enhance monitoring and enforcement capabilities.

4       “(c) INVESTIGATION AND RESOLUTION.—In the case  
5       of any acts, policies, or practices of a foreign government  
6       identified as a trade enforcement priority under subsection  
7       (a), the Trade Representative shall, not later than the date  
8       of the first semiannual enforcement consultations held  
9       under subsection (b) after the identification of the pri-  
10      ority, take appropriate action to address that priority, in-  
11      cluding—

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

15             “(2) initiation of an investigation under section  
16             302(b)(1) with respect to such acts, policies, or  
17             practices;

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

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

1       “(d) ENFORCEMENT NOTIFICATIONS AND CON-  
2 SULTATION.—

3               “(1) INITIATION OF ENFORCEMENT ACTION.—

4       The Trade Representative shall notify and consult  
5 with the Committee on Finance of the Senate and  
6 the Committee on Ways and Means of the House of  
7 Representatives in advance of initiation of any for-  
8 mal trade dispute by or against the United States  
9 taken in regard to an obligation under the WTO  
10 Agreements or any other trade agreement to which  
11 the United States is a party. With respect to a for-  
12 mal trade dispute against the United States, if ad-  
13 vance notification and consultation are not possible,  
14 the Trade Representative shall notify and consult at  
15 the earliest practicable opportunity after initiation of  
16 the dispute.

17               “(2) CIRCULATION OF REPORTS.—The Trade  
18 Representative shall notify and consult with the  
19 Committee on Finance of the Senate and the Com-  
20 mittee on Ways and Means of the House of Rep-  
21 resentatives in advance of the announced or antici-  
22 pated circulation of any report of a dispute settle-  
23 ment panel or the Appellate Body of the World  
24 Trade Organization or of a dispute settlement panel  
25 under any other trade agreement to which the

1 United States is a party with respect to a formal  
2 trade dispute by or against the United States.

3 “(e) DEFINITIONS.—In this section:

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

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

10 “(3) WTO AGREEMENTS.—The term ‘WTO  
11 Agreements’ means the WTO Agreement and agree-  
12 ments annexed to that Agreement.”.

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

“Sec. 310. Trade enforcement priorities.”.

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

19 (a) IN GENERAL.—Section 306 of the Trade Act of  
20 1974 (19 U.S.C. 2416) is amended—

21 (1) by redesignating subsection (c) as sub-  
22 section (d); and

23 (2) by inserting after subsection (b) the fol-  
24 lowing:

1       “(c) EXERCISE OF WTO AUTHORIZATION TO SUS-  
2 PEND CONCESSIONS OR OTHER OBLIGATIONS.—If—

3               “(1) action has terminated pursuant to section  
4       307(c),

5               “(2) the petitioner or any representative of the  
6       domestic industry that would benefit from reinstatement  
7       of action has submitted to the Trade Rep-  
8       resentative a written request for reinstatement of ac-  
9       tion, and

10              “(3) the Trade Representative has completed  
11       the requirements of subsection (d) and section  
12       307(c)(3),

13 the Trade Representative may at any time determine to  
14 take action under section 301(c) to exercise an authoriza-  
15 tion to suspend concessions or other obligations under Ar-  
16 ticle 22 of the Understanding on Rules and Procedures  
17 Governing the Settlement of Disputes (referred to in sec-  
18 tion 101(d)(16) of the Uruguay Round Agreements Act  
19 (19 U.S.C. 3511(d)(16))).”.

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

23              (1) in section 301(c)(1) (19 U.S.C. 2411(c)(1)),  
24       in the matter preceding subparagraph (A), by insert-

1 ing “or section 306(c)” after “subsection (a) or  
2 (b)”;

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

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

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

14 **SEC. 603. TRADE MONITORING.**

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

18 **“SEC. 205. TRADE MONITORING.**

19 “(a) MONITORING TOOL FOR IMPORTS.—

20 “(1) IN GENERAL.—Not later than 180 days  
21 after the date of the enactment of this section, the  
22 United States International Trade Commission shall  
23 make available on a website of the Commission an  
24 import monitoring tool to allow the public access to  
25 data on the volume and value of goods imported into

1 the United States for the purpose of assessing  
2 whether such data has changed with respect to such  
3 goods over a period of time.

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

9 “(3) PERIODS OF TIME.—The Commission shall  
10 ensure that data accessed through the monitoring  
11 tool under paragraph (1) includes data for the most  
12 recent quarter for which such data are available and  
13 previous quarters as the Commission considers prac-  
14 ticable.

15 “(b) MONITORING REPORTS.—

16 “(1) IN GENERAL.—Not later than 270 days  
17 after the date of the enactment of this section, and  
18 not less frequently than quarterly thereafter, the  
19 Secretary of Commerce shall publish on a website of  
20 the Department of Commerce, and notify the Com-  
21 mittee on Finance of the Senate and the Committee  
22 on Ways and Means of the House of Representatives  
23 of the availability of, a monitoring report on changes  
24 in the volume and value of trade with respect to im-  
25 ports and exports of goods categorized based on the

1 6-digit subheading number of the goods under the  
2 Harmonized Tariff Schedule of the United States  
3 during the most recent quarter for which such data  
4 are available and previous quarters as the Secretary  
5 considers practicable.

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

11 “(c) SUNSET.—The requirements under this section  
12 terminate on the date that is 7 years after the date of  
13 the enactment of this section.”.

14 (b) CLERICAL AMENDMENT.—The table of contents  
15 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is  
16 amended by inserting after the item relating to section  
17 204 the following:

“Sec. 205. Trade monitoring.”.

18 **SEC. 604. ESTABLISHMENT OF INTERAGENCY TRADE EN-**  
19 **FORCEMENT CENTER.**

20 (a) IN GENERAL.—Chapter 4 of title I of the Trade  
21 Act of 1974 (19 U.S.C. 2171) is amended by adding at  
22 the end the following:

23 **“SEC. 142. INTERAGENCY TRADE ENFORCEMENT CENTER.**

24 “(a) ESTABLISHMENT OF CENTER.—There is estab-  
25 lished in the Office of the United States Trade Represent-

1 ative an Interagency Trade Enforcement Center (in this  
2 section referred to as the ‘Center’).

3 “(b) FUNCTIONS OF CENTER.—

4 “(1) IN GENERAL.—The Center shall—

5 “(A) serve as the primary forum within the  
6 Federal Government for the Office of the  
7 United States Trade Representative and other  
8 agencies to coordinate the enforcement of  
9 United States trade rights under international  
10 trade agreements and the enforcement of  
11 United States trade remedy laws;

12 “(B) coordinate among the Office of the  
13 United States Trade Representative and other  
14 agencies with responsibilities relating to trade  
15 the exchange of information related to potential  
16 violations of international trade agreements by  
17 foreign trading partners of the United States;  
18 and

19 “(C) conduct outreach to United States  
20 workers, businesses, and other interested per-  
21 sons to foster greater participation in the iden-  
22 tification and reduction or elimination of for-  
23 eign trade barriers and unfair foreign trade  
24 practices.

1           “(2) COORDINATION OF TRADE ENFORCE-  
2           MENT.—

3           “(A) IN GENERAL.—The Center shall co-  
4           ordinate matters relating to the enforcement of  
5           United States trade rights under international  
6           trade agreements and the enforcement of  
7           United States trade remedy laws among the Of-  
8           fice of the United States Trade Representative  
9           and the following agencies:

10                   “(i) The Department of State.

11                   “(ii) The Department of the Treas-  
12                   ury.

13                   “(iii) The Department of Justice.

14                   “(iv) The Department of Agriculture.

15                   “(v) The Department of Commerce.

16                   “(vi) The Department of Homeland  
17                   Security.

18                   “(vii) Such other agencies as the  
19                   President, or the United States Trade  
20                   Representative, may designate.

21           “(B) CONSULTATIONS ON INTELLECTUAL  
22           PROPERTY RIGHTS.—In matters relating to the  
23           enforcement of United States trade rights in-  
24           volving intellectual property rights, the Center  
25           shall consult with the Intellectual Property En-

1           forcement Coordinator appointed pursuant to  
2           section 301 of the Prioritizing Resources and  
3           Organization for Intellectual Property Act of  
4           2008 (15 U.S.C. 8111).

5           “(c) PERSONNEL.—

6           “(1) DIRECTOR.—The head of the Center shall  
7           be the Director, who shall—

8                   “(A) be appointed by the United States  
9                   Trade Representative from among full-time sen-  
10                  ior-level officials of the Office of the United  
11                  States Trade Representative; and

12                   “(B) report to the Trade Representative.

13           “(2) DEPUTY DIRECTOR.—There shall be in the  
14           Center a Deputy Director, who shall—

15                   “(A) be appointed by the Secretary of  
16                   Commerce from among full-time senior-level of-  
17                   ficials of the Department of Commerce and de-  
18                   tailed to the Center; and

19                   “(B) report directly to the Director.

20           “(3) ADDITIONAL EMPLOYEES.—The agencies  
21           specified in subsection (b)(2)(A) may, in consulta-  
22           tion with the Director, detail or assign their employ-  
23           ees to the Center without reimbursement to support  
24           the functions of the Center.

1       “(d) ADMINISTRATION.—Funding and administrative  
2 support for the Center shall be provided by the Office of  
3 the United States Trade Representative.

4       “(e) ANNUAL REPORT.—Not later than one year  
5 after the date of the enactment of this section, and not  
6 less frequently than annually thereafter, the Director shall  
7 submit to the Committee on Finance of the Senate and  
8 the Committee on Ways and Means of the House of Rep-  
9 resentatives a report on the actions taken by the Center  
10 in the preceding year with respect to the enforcement of  
11 United States trade rights under international trade  
12 agreements and the enforcement of United States trade  
13 remedy laws.

14       “(f) DEFINITIONS.—In this section:

15               “(1) UNITED STATES TRADE REMEDY LAWS.—  
16 The term ‘United States trade remedy laws’ means  
17 the following:

18                       “(A) Chapter 1 of title II of the Trade Act  
19 of 1974 (19 U.S.C. 2251 et seq.).

20                       “(B) Chapter 1 of title III of that Act (19  
21 U.S.C. 2411 et seq.).

22                       “(C) Sections 406 and 421 of that Act (19  
23 U.S.C. 2436 and 2451).

24                       “(D) Sections 332 and 337 of the Tariff  
25 Act of 1930 (19 U.S.C. 1332 and 1337).



1 rulemaking power of the Senate, any nomination of a Dep-  
2 uty United States Trade Representative, the Chief Agri-  
3 cultural Negotiator, or the Chief Manufacturing Nego-  
4 tiator submitted to the Senate for its advice and consent,  
5 and referred to a committee, shall be referred to the Com-  
6 mittee on Finance. Each Deputy United States Trade  
7 Representative, the Chief Agricultural Negotiator, and the  
8 Chief Manufacturing Negotiator shall hold office at the  
9 pleasure of the President and shall have the rank of Am-  
10 bassador.”.

11 (b) FUNCTIONS OF POSITION.—Section 141(c) of the  
12 Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

13 (1) by moving paragraph (5) 2 ems to the left;

14 and

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

16 “(6)(A) The principal function of the Chief Manufac-  
17 turing Negotiator shall be to conduct trade negotiations  
18 and to enforce trade agreements relating to United States  
19 manufacturing products and services. The Chief Manufac-  
20 turing Negotiator shall be a vigorous advocate on behalf  
21 of United States manufacturing interests and shall per-  
22 form such other functions as the United States Trade  
23 Representative may direct.

24 “(B) Not later than one year after the date of the  
25 enactment of the Trade Facilitation and Trade Enforce-

1 ment Act of 2015, and annually thereafter, the Chief Man-  
2 ufacturing Negotiator shall submit to the Committee on  
3 Finance of the Senate and the Committee on Ways and  
4 Means of the House of Representatives a report on the  
5 actions taken by the Chief Manufacturing Negotiator in  
6 the preceding year.”.

7 (c) COMPENSATION.—Section 5314 of title 5, United  
8 States Code, is amended by striking “Chief Agricultural  
9 Negotiator.” and inserting the following:

10 “Chief Agricultural Negotiator, Office of the United  
11 States Trade Representative.

12 “Chief Manufacturing Negotiator, Office of the  
13 United States Trade Representative.”.

14 (d) TECHNICAL AMENDMENTS.—Section 141(e) of  
15 the Trade Act of 1974 (19 U.S.C. 2171(e)) is amended—

16 (1) in paragraph (1), by striking “5314” and  
17 inserting “5315”; and

18 (2) in paragraph (2), by striking “the max-  
19 imum rate of pay for grade GS–18, as provided in  
20 section 5332” and inserting “the maximum rate of  
21 pay for level IV of the Executive Schedule in section  
22 5315”.

1 **SEC. 606. ENFORCEMENT UNDER TITLE III OF THE TRADE**  
2 **ACT OF 1974 WITH RESPECT TO CERTAIN**  
3 **ACTS, POLICIES, AND PRACTICES RELATING**  
4 **TO THE ENVIRONMENT.**

5 Section 301(d)(3)(B) of the Trade Act of 1974 (19  
6 U.S.C. 2411(d)(3)(B)) is amended—

7 (1) in clause (ii), by striking “or” at the end;

8 (2) in clause (iii)(V), by striking the period at  
9 the end and inserting “, or”; and

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

11 “(iv) constitutes a persistent pattern of  
12 conduct by the government of the foreign coun-  
13 try under which that government—

14 “(I) fails to effectively enforce the en-  
15 vironmental laws of the foreign country,

16 “(II) waives or otherwise derogates  
17 from the environmental laws of the foreign  
18 country or weakens the protections af-  
19 farded by such laws,

20 “(III) fails to provide for judicial or  
21 administrative proceedings giving access to  
22 remedies for violations of the environ-  
23 mental laws of the foreign country,

24 “(IV) fails to provide appropriate and  
25 effective sanctions or remedies for viola-

1                   tions of the environmental laws of the for-  
2                   eign country, or

3                   “(V) fails to effectively enforce envi-  
4                   ronmental commitments under agreements  
5                   to which the foreign country and the  
6                   United States are a party.”.

7 **SEC. 607. TRADE ENFORCEMENT TRUST FUND.**

8           (a) **ESTABLISHMENT.**—There is established in the  
9 Treasury of the United States a trust fund to be known  
10 as the Trade Enforcement Trust Fund (in this section re-  
11 ferred to as the “Trust Fund”), consisting of amounts  
12 transferred to the Trust Fund under subsection (b) and  
13 any amounts that may be credited to the Trust Fund  
14 under subsection (c).

15           (b) **TRANSFER OF AMOUNTS.**—

16               (1) **IN GENERAL.**—The Secretary of the Treas-  
17 ury shall transfer to the Trust Fund, from the gen-  
18 eral fund of the Treasury, for each fiscal year that  
19 begins on or after the date of the enactment of this  
20 Act, an amount equal to \$15,000,000 (or a lesser  
21 amount as required pursuant to paragraph (2)) of  
22 the antidumping duties and countervailing duties re-  
23 ceived in the Treasury for such fiscal year.

1           (2) LIMITATION.—The total amount in the  
2 Trust Fund at any time may not exceed  
3 \$30,000,000.

4           (3) FREQUENCY OF TRANSFERS; ADJUST-  
5 MENTS.—

6           (A) FREQUENCY OF TRANSFERS.—The  
7 Secretary shall transfer amounts required to be  
8 transferred to the Trust Fund under paragraph  
9 (1) not less frequently than quarterly from the  
10 general fund of the Treasury to the Trust Fund  
11 on the basis of estimates made by the Sec-  
12 retary.

13           (B) ADJUSTMENTS.—The Secretary shall  
14 make proper adjustments in amounts subse-  
15 quently transferred to the Trust Fund to the  
16 extent prior estimates were in excess of or less  
17 than the amounts required to be transferred to  
18 the Trust Fund.

19           (c) INVESTMENT OF AMOUNTS.—

20           (1) INVESTMENT OF AMOUNTS.—The Secretary  
21 shall invest such portion of the Trust Fund as is not  
22 required to meet current withdrawals in interest-  
23 bearing obligations of the United States or in obliga-  
24 tions guaranteed as to both principal and interest by  
25 the United States.

1           (2) INTEREST AND PROCEEDS.—The interest  
2           on, and the proceeds from the sale or redemption of,  
3           any obligations held in Trust Fund shall be credited  
4           to and form a part of the Trust Fund.

5           (d) AVAILABILITY OF AMOUNTS FROM TRUST  
6 FUND.—

7           (1) ENFORCEMENT.—The United States Trade  
8           Representative may use the amounts in the Trust  
9           fund to carry out any of the following:

10                   (A) To seek to enforce the provisions of  
11                   and commitments and obligations under the  
12                   WTO Agreements and free trade agreements to  
13                   which the United States is a party and resolve  
14                   any actions by foreign countries that are incon-  
15                   sistent with those provisions, commitments, and  
16                   obligations.

17                   (B) To monitor the implementation by for-  
18                   eign countries of the provisions of and commit-  
19                   ments and obligations under free trade agree-  
20                   ments to which the United States is a party for  
21                   purposes of systematically assessing, identi-  
22                   fying, investigating, or initiating steps to ad-  
23                   dress inconsistencies with those provisions, com-  
24                   mitments, and obligations.

1           (C) To thoroughly investigate and respond  
2           to petitions under section 302 of the Trade Act  
3           of 1974 (19 U.S.C. 2412) requesting that ac-  
4           tion be taken under section 301 of such Act (19  
5           U.S.C. 2411).

6           (2) IMPLEMENTATION ASSISTANCE AND CAPAC-  
7           ITY BUILDING.—The United States Trade Rep-  
8           resentative, the Secretary of State, the Adminis-  
9           trator of the United States Agency for International  
10          Development, the Secretary of Labor, and such  
11          heads of other Federal agencies as the President  
12          considers appropriate may use the amounts in the  
13          Trust Fund to carry out any of the following:

14           (A) To ensure capacity-building efforts un-  
15           dertaken by the United States pursuant to any  
16           free trade agreement to which the United  
17           States is a party prioritize and give special at-  
18           tention to the timely, consistent, and robust im-  
19           plementation of the intellectual property, labor,  
20           and environmental commitments and obliga-  
21           tions of any party to that free trade agreement.

22           (B) To ensure capacity-building efforts un-  
23           dertaken by the United States pursuant to any  
24           such free trade agreement are self-sustaining  
25           and promote local ownership.

1           (C) To ensure capacity-building efforts un-  
2           dertaken by the United States pursuant to any  
3           such free trade agreement include performance  
4           indicators against which the progress and ob-  
5           stacles for the implementation of commitments  
6           and obligations described in subparagraph (A)  
7           can be identified and assessed within a mean-  
8           ingful time frame.

9           (D) To monitor and evaluate the capacity-  
10          building efforts of the United States under sub-  
11          paragraphs (A), (B), and (C).

12          (3) LIMITATION.—Amounts made available in  
13          the Trust Fund may not be used for negotiations for  
14          any free trade agreement to be entered into on or  
15          after the date of the enactment of this Act.

16          (e) REPORT.—Not later than 18 months after the  
17          entry into force of any free trade agreement entered into  
18          after the date of the enactment of this Act, the United  
19          States Trade Representative, the Secretary of State, the  
20          Administrator of the United States Agency for Inter-  
21          national Development, the Secretary of Labor, and any  
22          other head of a Federal agency who has used amounts  
23          in the Trust Fund in connection with that agreement,  
24          shall each submit to Congress a report on the actions

1 taken by that official under subsection (d) in connection  
2 with that agreement.

3 (f) COMPTROLLER GENERAL STUDY.—

4 (1) IN GENERAL.—The Comptroller General of  
5 the United States shall conduct a study that in-  
6 cludes the following:

7 (A) A comprehensive analysis of the trade  
8 enforcement expenditures of each Federal agen-  
9 cy with responsibilities relating to trade that  
10 specifies, with respect to each such Federal  
11 agency—

12 (i) the amounts appropriated for trade  
13 enforcement; and

14 (ii) the number of full-time employees  
15 carrying out activities relating to trade en-  
16 forcement.

17 (B) Recommendations on the additional  
18 employees and resources that each such Federal  
19 agency may need to effectively enforce the free  
20 trade agreements to which the United States is  
21 a party.

22 (2) REPORT.—Not later than one year after the  
23 date of the enactment of this Act, the Comptroller  
24 General shall submit to Congress a report on the re-  
25 sults of the study conducted under paragraph (1).

1 (g) DEFINITIONS.—In this section:

2 (1) ANTIDUMPING DUTY.—The term “anti-  
3 dumping duty” means an antidumping duty imposed  
4 under section 731 of the Tariff Act of 1930 (19  
5 U.S.C. 1673).

6 (2) COUNTERVAILING DUTY.—The term “coun-  
7 tervailing duty” means a countervailing duty im-  
8 posed under section 701 of the Tariff Act of 1930  
9 (19 U.S.C. 1671).

10 (3) WTO.—The term “WTO” means the World  
11 Trade Organization.

12 (4) WTO AGREEMENT.—The term “WTO  
13 Agreement” has the meaning given that term in sec-  
14 tion 2(9) of the Uruguay Round Agreements Act (19  
15 U.S.C. 3501(9)).

16 (5) WTO AGREEMENTS.—The term “WTO  
17 Agreements” means the WTO Agreement and agree-  
18 ments annexed to that Agreement.

19 **SEC. 608. HONEY TRANSSHIPMENT.**

20 (a) IN GENERAL.—The Commissioner shall direct ap-  
21 propriate personnel and resources of U.S. Customs and  
22 Border Protection to address concerns that honey is being  
23 imported into the United States in violation of the customs  
24 and trade laws of the United States.

25 (b) COUNTRY OF ORIGIN.—

1           (1) IN GENERAL.—The Commissioner shall  
2           compile a database of the individual characteristics  
3           of honey produced in foreign countries to facilitate  
4           the verification of country of origin markings of im-  
5           ported honey.

6           (2) ENGAGEMENT WITH FOREIGN GOVERN-  
7           MENTS.—The Commissioner shall seek to engage the  
8           customs agencies of foreign governments for assist-  
9           ance in compiling the database described in para-  
10          graph (1).

11          (3) CONSULTATION WITH INDUSTRY.—In com-  
12          piling the database described in paragraph (1), the  
13          Commissioner shall consult with entities in the  
14          honey industry regarding the development of indus-  
15          try standards for honey identification.

16          (4) CONSULTATION WITH FOOD AND DRUG AD-  
17          MINISTRATION.—In compiling the database de-  
18          scribed in paragraph (1), the Commissioner shall  
19          consult with the Commissioner of Food and Drugs.

20          (c) REPORT REQUIRED.—Not later than 180 days  
21          after the date of the enactment of this Act, the Commis-  
22          sioner shall submit to Congress a report that—

23                 (1) describes and assesses the limitations in the  
24                 existing analysis capabilities of laboratories with re-  
25                 spect to determining the country of origin of honey

1 samples or the percentage of honey contained in a  
2 sample; and

3 (2) includes any recommendations of the Com-  
4 missioner for improving such capabilities.

5 (d) SENSE OF CONGRESS.—It is the sense of Con-  
6 gress that the Commissioner of Food and Drugs should  
7 promptly establish a national standard of identity for  
8 honey for the Commissioner responsible for U.S. Customs  
9 and Border Protection to use to ensure that imports of  
10 honey are—

11 (1) classified accurately for purposes of assess-  
12 ing duties; and

13 (2) denied entry into the United States if such  
14 imports pose a threat to the health or safety of con-  
15 sumers in the United States.

16 **SEC. 609. INCLUSION OF INTEREST IN CERTAIN DISTRIBUTIONS OF ANTIDUMPING DUTIES AND COUNTERVAILING DUTIES.**

17  
18  
19 (a) IN GENERAL.—The Secretary of Homeland Security shall deposit all interest described in subsection (c)  
20 into the special account established under section 754(e)  
21 of the Tariff Act of 1930 (19 U.S.C. 1675c(e)) (repealed  
22 by subtitle F of title VII of the Deficit Reduction Act of  
23 2005 (Public Law 109–171; 120 Stat. 154)) for inclusion  
24

1 in distributions described in subsection (b) made on or  
2 after the date of the enactment of this Act.

3 (b) DISTRIBUTIONS DESCRIBED.—Distributions de-  
4 scribed in this subsection are distributions of antidumping  
5 duties and countervailing duties assessed on or after Octo-  
6 ber 1, 2000, that are made under section 754 of the Tariff  
7 Act of 1930 (19 U.S.C. 1675c) (repealed by subtitle F  
8 of title VII of the Deficit Reduction Act of 2005 (Public  
9 Law 109–171; 120 Stat. 154)), with respect to entries of  
10 merchandise—

11 (1) made on or before September 30, 2007; and

12 (2) that were, in accordance with section 822 of  
13 the Claims Resolution Act of 2010 (19 U.S.C. 1675c  
14 note), unliquidated, not in litigation, and not under  
15 an order of liquidation from the Department of  
16 Commerce on December 8, 2010.

17 (c) INTEREST DESCRIBED.—

18 (1) INTEREST REALIZED.—Interest described in  
19 this subsection is interest earned on antidumping  
20 duties or countervailing duties distributed as de-  
21 scribed in subsection (b) that is realized through ap-  
22 plication of a payment received on or after October  
23 1, 2014, by U.S. Customs and Border Protection  
24 under, or in connection with—

1 (A) a customs bond pursuant to a court  
2 order or judgment entered as a result of a civil  
3 action filed by the Federal Government against  
4 the surety from which the payment was ob-  
5 tained for the purpose of collecting duties or in-  
6 terest owed with respect to an entry; or

7 (B) a settlement for any such bond if the  
8 settlement was executed after the Federal Gov-  
9 ernment filed a civil action described in sub-  
10 paragraph (A).

11 (2) TYPES OF INTEREST.—Interest described in  
12 paragraph (1) includes the following:

13 (A) Interest accrued under section 778 of  
14 the Tariff Act of 1930 (19 U.S.C. 1677g).

15 (B) Interest accrued under section 505(d)  
16 of the Tariff Act of 1930 (19 U.S.C. 1505(d)).

17 (C) Equitable interest under common law  
18 or interest under section 963 of the Revised  
19 Statutes (19 U.S.C. 580) awarded by a court  
20 against a surety under its bond for late pay-  
21 ment of antidumping duties, countervailing du-  
22 ties, or interest described in subparagraph (A)  
23 or (B).

24 (d) DEFINITIONS.—In this section:

1           (1) ANTIDUMPING DUTIES.—The term “anti-  
2           dumping duties” means antidumping duties imposed  
3           under section 731 of the Tariff Act of 1930 (19  
4           U.S.C. 1673) or under the Antidumping Act, 1921  
5           (title II of the Act of May 27, 1921; 42 Stat. 11,  
6           chapter 14).

7           (2) COUNTERVAILING DUTIES.—The term  
8           “countervailing duties” means countervailing duties  
9           imposed under section 701 of the Tariff Act of 1930  
10          (19 U.S.C. 1671).

11 **SEC. 610. ILLICITLY IMPORTED, EXPORTED, OR TRAF-**  
12                           **FICKED CULTURAL PROPERTY, ARCHAEO-**  
13                           **LOGICAL OR ETHNOLOGICAL MATERIALS,**  
14                           **AND FISH, WILDLIFE, AND PLANTS.**

15          (a) IN GENERAL.—The Commissioner and the Direc-  
16          tor of U.S. Immigration and Customs Enforcement shall  
17          ensure that appropriate personnel of U.S. Customs and  
18          Border Protection and U.S. Immigration and Customs  
19          Enforcement, as the case may be, are trained in the detec-  
20          tion, identification, detention, seizure, and forfeiture of  
21          cultural property, archaeological or ethnological materials,  
22          and fish, wildlife, and plants, the importation, exportation,  
23          or trafficking of which violates the laws of the United  
24          States.

1 (b) TRAINING.—The Commissioner and the Director  
2 are authorized to accept training and other support serv-  
3 ices from experts outside of the Federal Government with  
4 respect to the detection, identification, detention, seizure,  
5 and forfeiture of cultural property, archaeological or eth-  
6 nological materials, or fish, wildlife, and plants described  
7 in subsection (a).

8 **Subtitle B—Intellectual Property**  
9 **Rights Protection**

10 **SEC. 611. ESTABLISHMENT OF CHIEF INNOVATION AND IN-**  
11 **TELLECTUAL PROPERTY NEGOTIATOR.**

12 (a) IN GENERAL.—Section 141 of the Trade Act of  
13 1974 (19 U.S.C. 2171) is amended—

14 (1) in subsection (b)(2), as amended by section  
15 605(a) of this Act—

16 (A) by striking “and one Chief Manufac-  
17 turing Negotiator” and inserting “one Chief  
18 Manufacturing Negotiator, and one Chief Inno-  
19 vation and Intellectual Property Negotiator”;

20 (B) by striking “or the Chief Manufac-  
21 turing Negotiator” and inserting “the Chief  
22 Manufacturing Negotiator, or the Chief Inno-  
23 vation and Intellectual Property Negotiator”; and

24 (C) by striking “and the Chief Manufac-  
25 turing Negotiator” and inserting “the Chief

1 Manufacturing Negotiator, and the Chief Inno-  
2 vation and Intellectual Property Negotiator”;  
3 and

4 (2) in subsection (c), as amended by section  
5 605(b) of this Act, by adding at the end the fol-  
6 lowing:

7 “(7) The principal functions of the Chief Innovation  
8 and Intellectual Property Negotiator shall be to conduct  
9 trade negotiations and to enforce trade agreements relat-  
10 ing to United States intellectual property and to take ap-  
11 propriate actions to address acts, policies, and practices  
12 of foreign governments that have a significant adverse im-  
13 pact on the value of United States innovation. The Chief  
14 Innovation and Intellectual Property Negotiator shall be  
15 a vigorous advocate on behalf of United States innovation  
16 and intellectual property interests. The Chief Innovation  
17 and Intellectual Property Negotiator shall perform such  
18 other functions as the United States Trade Representative  
19 may direct.”.

20 (b) COMPENSATION.—Section 5314 of title 5, United  
21 States Code, as amended by section 605(c) of this Act,  
22 is further amended by inserting after “Chief Manufac-  
23 turing Negotiator, Office of the United States Trade Rep-  
24 resentative.” the following:

1 “Chief Innovation and Intellectual Property Nego-  
2 tiator, Office of the United States Trade Representative.”.

3 (c) REPORT REQUIRED.—Not later than one year  
4 after the appointment of the first Chief Innovation and  
5 Intellectual Property Negotiator pursuant to paragraph  
6 (2) of section 141(b) of the Trade Act of 1974, as amend-  
7 ed by subsection (a), and annually thereafter, the United  
8 States Trade Representative shall submit to the Com-  
9 mittee on Finance of the Senate and the Committee on  
10 Ways and Means of the House of Representatives a report  
11 describing in detail—

12 (1) enforcement actions taken by the Trade  
13 Representative during the year preceding the sub-  
14 mission of the report to ensure the protection of  
15 United States innovation and intellectual property  
16 interests; and

17 (2) other actions taken by the Trade Represent-  
18 ative to advance United States innovation and intel-  
19 lectual property interests.

20 **SEC. 612. MEASURES RELATING TO COUNTRIES THAT DENY**  
21 **ADEQUATE PROTECTION FOR INTELLECTUAL**  
22 **PROPERTY RIGHTS.**

23 (a) INCLUSION OF COUNTRIES THAT DENY ADE-  
24 QUATE PROTECTION OF TRADE SECRETS.—Section  
25 182(d)(2) of the Trade Act of 1974 (19 U.S.C.

1 2242(d)(2)) is amended by inserting “, trade secrets,”  
2 after “copyrights”.

3 (b) SPECIAL RULES FOR COUNTRIES ON THE PRI-  
4 ORITY WATCH LIST OF THE UNITED STATES TRADE  
5 REPRESENTATIVE.—

6 (1) IN GENERAL.—Section 182 of the Trade  
7 Act of 1974 (19 U.S.C. 2242) is amended by strik-  
8 ing subsection (g) and inserting the following:

9 “(g) SPECIAL RULES FOR FOREIGN COUNTRIES ON  
10 THE PRIORITY WATCH LIST.—

11 “(1) ACTION PLANS.—

12 “(A) IN GENERAL.—Not later than 90  
13 days after the date on which the Trade Rep-  
14 resentative submits the National Trade Esti-  
15 mate under section 181(b), the Trade Rep-  
16 resentative shall develop an action plan de-  
17 scribed in subparagraph (C) with respect to  
18 each foreign country described in subparagraph  
19 (B).

20 “(B) FOREIGN COUNTRY DESCRIBED.—  
21 The Trade Representative shall develop an ac-  
22 tion plan pursuant to subparagraph (A) with  
23 respect to each foreign country that—

1           “(i) the Trade Representative has  
2 identified for placement on the priority  
3 watch list; and

4           “(ii) has remained on such list for at  
5 least 1 year.

6           “(C) ACTION PLAN DESCRIBED.—An ac-  
7 tion plan developed pursuant to subparagraph  
8 (A) shall contain the benchmarks described in  
9 subparagraph (D) and be designed to assist the  
10 foreign country—

11           “(i) to achieve—

12           “(I) adequate and effective pro-  
13 tection of intellectual property rights;  
14 and

15           “(II) fair and equitable market  
16 access for United States persons that  
17 rely upon intellectual property protec-  
18 tion; or

19           “(ii) to make significant progress to-  
20 ward achieving the goals described in  
21 clause (i).

22           “(D) BENCHMARKS DESCRIBED.—The  
23 benchmarks contained in an action plan devel-  
24 oped pursuant to subparagraph (A) are such  
25 legislative, institutional, enforcement, or other

1 actions as the Trade Representative determines  
2 to be necessary for the foreign country to  
3 achieve the goals described in clause (i) or (ii)  
4 of subparagraph (C).

5 “(2) FAILURE TO MEET ACTION PLAN BENCH-  
6 MARKS.—If, 1 year after the date on which an ac-  
7 tion plan is developed under paragraph (1)(A), the  
8 President, in consultation with the Trade Represent-  
9 ative, determines that the foreign country to which  
10 the action plan applies has not substantially com-  
11 plied with the benchmarks described in paragraph  
12 (1)(D), the President may take appropriate action  
13 with respect to the foreign country.

14 “(3) PRIORITY WATCH LIST DEFINED.—In this  
15 subsection, the term ‘priority watch list’ means the  
16 priority watch list established by the Trade Rep-  
17 resentative.

18 “(h) ANNUAL REPORT.—Not later than 30 days after  
19 the date on which the Trade Representative submits the  
20 National Trade Estimate under section 181(b), the Trade  
21 Representative shall transmit to the Committee on Ways  
22 and Means of the House of Representatives and the Com-  
23 mittee on Finance of the Senate a report on actions taken  
24 under this section during the 12 months preceding such  
25 report, and the reasons for such actions, including—

1           “(1) any foreign countries identified under sub-  
2           section (a);

3           “(2) a description of progress made in achiev-  
4           ing improved intellectual property protection and  
5           market access for persons relying on intellectual  
6           property rights; and

7           “(3) a description of the action plans developed  
8           under subsection (g) and any actions taken by for-  
9           eign countries under such plans.”.

10           (2) AUTHORIZATION OF APPROPRIATIONS.—

11           (A) IN GENERAL.—There are authorized to  
12           be appropriated to the Office of the United  
13           States Trade Representative such sums as may  
14           be necessary to provide assistance to any devel-  
15           oping country to which an action plan applies  
16           under section 182(g) of the Trade Act of 1974,  
17           as amended by paragraph (1), to facilitate the  
18           efforts of the developing country to comply with  
19           the benchmarks contained in the action plan.  
20           Such assistance may include capacity building,  
21           activities designed to increase awareness of in-  
22           tellectual property rights, and training for offi-  
23           cials responsible for enforcing intellectual prop-  
24           erty rights in the developing country.

1 (B) DEVELOPING COUNTRY DEFINED.—In  
2 this paragraph, the term “developing country”  
3 means a country classified by the World Bank  
4 as having a low-income or lower-middle-income  
5 economy.

6 (3) RULE OF CONSTRUCTION.—Nothing in this  
7 subsection shall be construed as limiting the author-  
8 ity of the President or the United States Trade Rep-  
9 resentative to develop action plans other than action  
10 plans described in section 182(g) of the Trade Act  
11 of 1974, as amended by paragraph (1), or to take  
12 any action otherwise authorized by law in response  
13 to the failure of a foreign country to provide ade-  
14 quate and effective protection and enforcement of in-  
15 tellectual property rights.

16 **TITLE VII—CURRENCY**  
17 **MANIPULATION**

18 **Subtitle A—Investigation of**  
19 **Currency Undervaluation**

20 **SEC. 701. SHORT TITLE.**

21 This subtitle may be cited as the “Currency Under-  
22 valuation Investigation Act”.

1 **SEC. 702. INVESTIGATION OR REVIEW OF CURRENCY**  
2 **UNDERVALUATION UNDER COUNTERVAILING**  
3 **DUTY LAW.**

4 Subsection (c) of section 702 of the Tariff Act of  
5 1930 (19 U.S.C. 1671a(c)) is amended by adding at the  
6 end the following:

7 “(6) CURRENCY UNDERVALUATION.—For pur-  
8 poses of a countervailing duty investigation under  
9 this subtitle in which the determinations under  
10 clauses (i) and (ii) of paragraph (1)(A) are affirma-  
11 tive, or a review under subtitle C with respect to a  
12 countervailing duty order, the administering author-  
13 ity shall initiate an investigation to determine wheth-  
14 er currency undervaluation by the government of a  
15 country or any public entity within the territory of  
16 a country is providing, directly or indirectly, a  
17 countervailable subsidy, if—

18 “(A) a petition filed by an interested party  
19 (described in subparagraph (C), (D), (E), (F),  
20 or (G) of section 771(9)) alleges the elements  
21 necessary for the imposition of the duty im-  
22 posed by section 701(a); and

23 “(B) the petition is accompanied by infor-  
24 mation reasonably available to the petitioner  
25 supporting those allegations.”.

1 **SEC. 703. BENEFIT CALCULATION METHODOLOGY WITH RE-**  
2 **SPECT TO CURRENCY UNDERVALUATION.**

3 Section 771 of the Tariff Act of 1930 (19 U.S.C.  
4 1677) is amended by adding at the end the following:

5 “(37) CURRENCY UNDERVALUATION BEN-  
6 EFIT.—

7 “(A) CURRENCY UNDERVALUATION BEN-  
8 EFIT.—For purposes of a countervailing duty  
9 investigation under subtitle A, or a review  
10 under subtitle C with respect to a counter-  
11 vailing duty order, the following shall apply:

12 “(i) IN GENERAL.—If the admin-  
13 istering authority determines to investigate  
14 whether currency undervaluation provides  
15 a countervailable subsidy, the admin-  
16 istering authority shall determine whether  
17 there is a benefit to the recipient of that  
18 subsidy and measure such benefit by com-  
19 paring the simple average of the real ex-  
20 change rates derived from application of  
21 the macroeconomic-balance approach and  
22 the equilibrium-real-exchange-rate ap-  
23 proach to the official daily exchange rate  
24 identified by the administering authority.

25 “(ii) RELIANCE ON DATA.—In making  
26 the determination under clause (i), the ad-

1 ministering authority shall rely upon data  
2 that are publicly available, reliable, and  
3 compiled and maintained by the Inter-  
4 national Monetary Fund or the World  
5 Bank, or other international organizations  
6 or national governments if data from the  
7 International Monetary Fund or World  
8 Bank are not available.

9 “(B) DEFINITIONS.—In this paragraph:

10 “(i) MACROECONOMIC-BALANCE AP-  
11 PROACH.—The term ‘macroeconomic-bal-  
12 ance approach’ means a methodology  
13 under which the level of undervaluation of  
14 the real effective exchange rate of the cur-  
15 rency of the exporting country is defined  
16 as the change in the real effective exchange  
17 rate needed to achieve equilibrium in the  
18 balance of payments of the exporting coun-  
19 try, as such methodology is described in  
20 the guidelines of the International Mone-  
21 tary Fund’s Consultative Group on Ex-  
22 change Rate Issues, if available.

23 “(ii) EQUILIBRIUM-REAL-EXCHANGE-  
24 RATE APPROACH.—The term ‘equilibrium-  
25 real-exchange-rate approach’ means a

1 methodology under which the level of  
2 undervaluation of the real effective ex-  
3 change rate of the currency of the export-  
4 ing country is defined as the difference be-  
5 tween the observed real effective exchange  
6 rate and the real effective exchange rate,  
7 as such methodology is described in the  
8 guidelines of the International Monetary  
9 Fund’s Consultative Group on Exchange  
10 Rate Issues, if available.

11 “(iii) REAL EXCHANGE RATES.—The  
12 term ‘real exchange rates’ means the bilat-  
13 eral exchange rates derived from con-  
14 verting the trade-weighted multilateral ex-  
15 change rates yielded by the macro-  
16 economic-balance approach and the equi-  
17 librium-real-exchange-rate approach into  
18 real bilateral terms.”.

19 **SEC. 704. MODIFICATION OF DEFINITION OF SPECIFICITY**  
20 **WITH RESPECT TO EXPORT SUBSIDY.**

21 Section 771(5A)(B) of the Tariff Act of 1930 (19  
22 U.S.C. 1677(5A)(B)) is amended by adding at the end  
23 the following new sentence: “The fact that a subsidy may  
24 also be provided in circumstances that do not involve ex-  
25 port shall not, for that reason alone, mean that the sub-

1 sidy cannot be considered contingent upon export perform-  
2 ance.”.

3 **SEC. 705. APPLICATION TO CANADA AND MEXICO.**

4 Pursuant to article 1902 of the North American Free  
5 Trade Agreement and section 408 of the North American  
6 Free Trade Agreement Implementation Act (19 U.S.C.  
7 3438), the amendments made by this subtitle shall apply  
8 with respect to goods from Canada and Mexico.

9 **SEC. 706. EFFECTIVE DATE.**

10 The amendments made by this subtitle apply to coun-  
11 tervailing duty investigations initiated under subtitle A of  
12 title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et  
13 seq.) and reviews initiated under subtitle C of title VII  
14 of such Act (19 U.S.C. 1675 et seq.)—

15 (1) before the date of the enactment of this  
16 Act, if the investigation or review is pending a final  
17 determination as of such date of enactment; and

18 (2) on or after such date of enactment.

1 **Subtitle B—Engagement on Cur-**  
2 **rency Exchange Rate and Eco-**  
3 **nom ic Policies**

4 **SEC. 711. ENHANCEMENT OF ENGAGEMENT ON CURRENCY**  
5 **EXCHANGE RATE AND ECONOMIC POLICIES**  
6 **WITH CERTAIN MAJOR TRADING PARTNERS**  
7 **OF THE UNITED STATES.**

8 (a) MAJOR TRADING PARTNER REPORT.—

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

16 (2) ELEMENTS.—

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

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

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

23 (II) that country's current ac-  
24 count balance as a percentage of its  
25 gross domestic product;

1 (III) the change in that country's  
2 current account balance as a percent-  
3 age of its gross domestic product dur-  
4 ing the 3-year period preceding the  
5 submission of the report;

6 (IV) that country's foreign ex-  
7 change reserves as a percentage of its  
8 short-term debt; and

9 (V) that country's foreign ex-  
10 change reserves as a percentage of its  
11 gross domestic product; and

12 (ii) an enhanced analysis of macro-  
13 economic and exchange rate policies for  
14 each country—

15 (I) that is a major trading part-  
16 ner of the United States;

17 (II) the currency of which is per-  
18 sistent and substantially under-  
19 valued;

20 (III) that has—

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

24 (bb) a material global cur-  
25 rent account surplus; and

1 (IV) that has engaged in per-  
2 sistent one-sided intervention in the  
3 foreign exchange market.

4 (B) ENHANCED ANALYSIS.—Each en-  
5 hanced analysis under subparagraph (A)(ii)  
6 shall include, for each country with respect to  
7 which an analysis is made under that subpara-  
8 graph—

9 (i) a description of developments in  
10 the currency markets of that country, in-  
11 cluding, to the greatest extent feasible, de-  
12 velopments with respect to currency inter-  
13 ventions;

14 (ii) a description of trends in the real  
15 effective exchange rate of the currency of  
16 that country and in the degree of under-  
17 valuation of that currency;

18 (iii) an analysis of changes in the cap-  
19 ital controls and trade restrictions of that  
20 country; and

21 (iv) patterns in the reserve accumula-  
22 tion of that country.

23 (b) ENGAGEMENT ON EXCHANGE RATE AND ECO-  
24 NOMIC POLICIES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the President, through the Secretary,  
3           shall commence enhanced bilateral engagement with  
4           each country for which an enhanced analysis of mac-  
5           roeconomic and currency exchange rate policies is in-  
6           cluded in the report submitted under subsection (a),  
7           in order to—

8                   (A) urge implementation of policies to ad-  
9                   dress the causes of the undervaluation of its  
10                  currency, its bilateral trade surplus with the  
11                  United States, and its material global current  
12                  account surplus, including undervaluation and  
13                  surpluses relating to exchange rate manage-  
14                  ment;

15                  (B) express the concern of the United  
16                  States with respect to the adverse trade and  
17                  economic effects of that undervaluation and  
18                  those surpluses;

19                  (C) develop measureable objectives for ad-  
20                  dressing that undervaluation and those sur-  
21                  pluses; and

22                  (D) advise that country of the ability of  
23                  the President to take action under subsection  
24                  (c).

1           (2) EXCEPTION.—The Secretary may determine  
2 not to enhance bilateral engagement with a country  
3 under paragraph (1) for which an enhanced analysis  
4 of macroeconomic and exchange rate policies is in-  
5 cluded in the report submitted under subsection (a)  
6 if the Secretary submits to the appropriate commit-  
7 tees of Congress a report that describes how the cur-  
8 rency and other macroeconomic policies of that  
9 country are addressing the undervaluation and sur-  
10 pluses specified in paragraph (1)(A) with respect to  
11 that country, including undervaluation and surpluses  
12 relating to exchange rate management.

13           (c) REMEDIAL ACTION.—

14           (1) IN GENERAL.—If, on the date that is one  
15 year after the commencement of enhanced bilateral  
16 engagement by the President with respect to a coun-  
17 try under subsection (b)(1), the country has failed to  
18 adopt appropriate policies to correct the undervalu-  
19 ation and surpluses described in subsection  
20 (b)(1)(A) with respect to that country, the President  
21 may take one or more of the following actions:

22           (A) Prohibit the Overseas Private Invest-  
23 ment Corporation from approving any new fi-  
24 nancing (including any insurance, reinsurance,

1 or guarantee) with respect to a project located  
2 in that country on and after such date.

3 (B) Except as provided in paragraph (2),  
4 and pursuant to paragraph (3), prohibit the  
5 Federal Government from procuring, or enter-  
6 ing into any contract for the procurement of,  
7 goods or services from that country on and  
8 after such date.

9 (C) Instruct the United States Executive  
10 Director of the International Monetary Fund to  
11 use the voice and vote of the United States to  
12 call for additional rigorous surveillance of the  
13 macroeconomic and exchange rate policies of  
14 that country and, as appropriate, formal con-  
15 sultations on findings of currency manipulation.

16 (D) Instruct the United States Trade Rep-  
17 resentative to take into account, in consultation  
18 with the Secretary, in assessing whether to  
19 enter into a bilateral or regional trade agree-  
20 ment with that country or to initiate or partici-  
21 pate in negotiations with respect to a bilateral  
22 or regional trade agreement with that country,  
23 the extent to which that country has failed to  
24 adopt appropriate policies to correct the under-

1 valuation and surpluses described in subsection  
2 (b)(1)(A).

3 (2) EXCEPTION.—The President may not apply  
4 a prohibition under paragraph (1)(B) with respect to  
5 a country that is a party to the Agreement on Gov-  
6 ernment Procurement or a free trade agreement to  
7 which the United States is a party.

8 (3) CONSULTATIONS.—

9 (A) OFFICE OF MANAGEMENT AND BUDG-  
10 ET.—Before applying a prohibition under para-  
11 graph (1)(B), the President shall consult with  
12 the Director of the Office of Management and  
13 Budget to determine whether such prohibition  
14 would subject the taxpayers of the United  
15 States to unreasonable cost.

16 (B) CONGRESS.—The President shall con-  
17 sult with the appropriate committees of Con-  
18 gress with respect to any action the President  
19 takes under paragraph (1)(B), including wheth-  
20 er the President has consulted as required  
21 under subparagraph (A).

22 (d) DEFINITIONS.—In this section:

23 (1) AGREEMENT ON GOVERNMENT PROCURE-  
24 MENT.—The term “Agreement on Government Pro-  
25 curement” means the agreement referred to in sec-

1 tion 101(d)(17) of the Uruguay Round Agreements  
2 Act (19 U.S.C. 3511(d)(17)).

3 (2) APPROPRIATE COMMITTEES OF CON-  
4 GRESS.—The term “appropriate committees of Con-  
5 gress” means—

6 (A) the Committee on Banking, Housing,  
7 and Urban Affairs and the Committee on Fi-  
8 nance of the Senate; and

9 (B) the Committee on Financial Services  
10 and the Committee on Ways and Means of the  
11 House of Representatives.

12 (3) COUNTRY.—The term “country” means a  
13 foreign country, dependent territory, or possession of  
14 a foreign country, and may include an association of  
15 2 or more foreign countries, dependent territories, or  
16 possessions of countries into a customs union out-  
17 side the United States.

18 (4) REAL EFFECTIVE EXCHANGE RATE.—The  
19 term “real effective exchange rate” means a weight-  
20 ed average of bilateral exchange rates, expressed in  
21 price-adjusted terms.

22 (5) SECRETARY.—The term “Secretary” means  
23 the Secretary of the Treasury.

1 **SEC. 712. ADVISORY COMMITTEE ON INTERNATIONAL EX-**  
2 **CHANGE RATE POLICY.**

3 (a) **ESTABLISHMENT.**—

4 (1) **IN GENERAL.**—There is established an Ad-  
5 visory Committee on International Exchange Rate  
6 Policy (in this section referred to as the “Com-  
7 mittee”).

8 (2) **DUTIES.**—The Committee shall be respon-  
9 sible for advising the Secretary of the Treasury with  
10 respect to the impact of international exchange rates  
11 and financial policies on the economy of the United  
12 States.

13 (b) **MEMBERSHIP.**—

14 (1) **IN GENERAL.**—The Committee shall be  
15 composed of 9 members as follows, none of whom  
16 shall be employees of the Federal Government:

17 (A) Three members shall be appointed by  
18 the President pro tempore of the Senate, upon  
19 the recommendation of the chairmen and rank-  
20 ing members of the Committee on Banking,  
21 Housing, and Urban Affairs and the Committee  
22 on Finance of the Senate.

23 (B) Three members shall be appointed by  
24 the Speaker of the House of Representatives  
25 upon the recommendation of the chairmen and  
26 ranking members of the Committee on Finan-

1           cial Services and the Committee on Ways and  
2           Means of the House of Representatives.

3           (C) Three members shall be appointed by  
4           the President.

5           (2) QUALIFICATIONS.—Members shall be se-  
6           lected under paragraph (1) on the basis of their ob-  
7           jectivity and demonstrated expertise in finance, eco-  
8           nomics, or currency exchange.

9           (3) TERMS.—

10           (A) IN GENERAL.—Members shall be ap-  
11           pointed for a term of 2 years or until the Com-  
12           mittee terminates.

13           (B) REAPPOINTMENT.—A member may be  
14           reappointed to the Committee for additional  
15           terms.

16           (4) VACANCIES.—Any vacancy in the Com-  
17           mittee shall not affect its powers, but shall be filled  
18           in the same manner as the original appointment.

19           (c) DURATION OF COMMITTEE.—

20           (1) IN GENERAL.—The Committee shall termi-  
21           nate on the date that is 2 years after the date of the  
22           enactment of this Act unless renewed by the Presi-  
23           dent for a subsequent 2-year period.

24           (2) CONTINUED RENEWAL.—The President  
25           may continue to renew the Committee for successive

1 2-year periods by taking appropriate action to renew  
2 the Committee prior to the date on which the Com-  
3 mittee would otherwise terminate.

4 (d) MEETINGS.—The Committee shall hold not less  
5 than 2 meetings each calendar year.

6 (e) CHAIRPERSON.—

7 (1) IN GENERAL.—The Committee shall elect  
8 from among its members a chairperson for a term  
9 of 2 years or until the Committee terminates.

10 (2) REELECTION; SUBSEQUENT TERMS.—A  
11 chairperson of the Committee may be reelected  
12 chairperson but is ineligible to serve consecutive  
13 terms as chairperson.

14 (f) STAFF.—The Secretary of the Treasury shall  
15 make available to the Committee such staff, information,  
16 personnel, administrative services, and assistance as the  
17 Committee may reasonably require to carry out the activi-  
18 ties of the Committee.

19 (g) APPLICATION OF THE FEDERAL ADVISORY COM-  
20 MITTEE ACT.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the provisions of the Federal Advisory  
23 Committee Act (5 U.S.C. App.) shall apply to the  
24 Committee.

1           (2) EXCEPTION.—Meetings of the Committee  
2 shall be exempt from the requirements of sub-  
3 sections (a) and (b) of section 10 and section 11 of  
4 the Federal Advisory Committee Act (relating to  
5 open meetings, public notice, public participation,  
6 and public availability of documents), whenever and  
7 to the extent it is determined by the President or the  
8 Secretary of the Treasury that such meetings will be  
9 concerned with matters the disclosure of which—

10                   (A) would seriously compromise the devel-  
11                   opment by the Government of the United States  
12                   of monetary or financial policy; or

13                   (B) is likely to—

14                           (i) lead to significant financial specu-  
15                           lation in currencies, securities, or commod-  
16                           ities; or

17                           (ii) significantly endanger the stability  
18                           of any financial institution.

19           (h) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated to the Secretary of the  
21 Treasury for each fiscal year in which the Committee is  
22 in effect \$1,000,000 to carry out this section.

1 **TITLE VIII—PROCESS FOR CON-**  
2 **SIDERATION OF TEMPORARY**  
3 **DUTY SUSPENSIONS AND RE-**  
4 **DUCTIONS**

5 **SEC. 801. SHORT TITLE.**

6 This title may be cited as the “American Manufac-  
7 turing Competitiveness Act of 2015”.

8 **SEC. 802. SENSE OF CONGRESS ON THE NEED FOR A MIS-**  
9 **CELLANEOUS TARIFF BILL.**

10 (a) FINDINGS.—Congress makes the following find-  
11 ings:

12 (1) As of the date of the enactment of this Act,  
13 the Harmonized Tariff Schedule of the United  
14 States imposes duties on imported goods for which  
15 there is no domestic availability or insufficient do-  
16 mestic availability.

17 (2) The imposition of duties on such goods cre-  
18 ates artificial distortions in the economy of the  
19 United States that negatively affect United States  
20 manufacturers and consumers.

21 (3) It is in the interests of the United States  
22 to update the Harmonized Tariff Schedule every 3  
23 years to eliminate such artificial distortions by sus-  
24 pending or reducing duties on such goods.



1 sional committees shall establish and, on the same day,  
2 publish on their respective publicly available Internet  
3 websites a process—

4 (1) to provide for the submission and consider-  
5 ation of legislation containing proposed duty suspen-  
6 sions and reductions in a manner that, to the max-  
7 imum extent practicable, is consistent with the re-  
8 quirements described in subsection (c); and

9 (2) to include in a miscellaneous tariff bill those  
10 duty suspensions and reductions that meet the re-  
11 quirements of this title.

12 (c) REQUIREMENTS OF COMMISSION.—

13 (1) INITIATION.—Not later than October 15,  
14 2015, and October 15, 2018, the Commission shall  
15 publish in the Federal Register and on a publicly  
16 available Internet website of the Commission a no-  
17 tice requesting members of the public to submit to  
18 the Commission during the 60-day period beginning  
19 on the date of such publication—

20 (A) proposed duty suspensions and reduc-  
21 tions; and

22 (B) Commission disclosure forms with re-  
23 spect to such duty suspensions and reductions.

24 (2) REVIEW.—

1           (A) COMMISSION SUBMISSION TO CON-  
2 GRESS.—As soon as practicable after the expi-  
3 ration of the 60-day period specified in para-  
4 graph (1), but not later than 15 days after the  
5 expiration of such 60-day period, the Commis-  
6 sion shall submit to the appropriate congres-  
7 sional committees the proposed duty suspen-  
8 sions and reductions submitted under para-  
9 graph (1)(A) and the Commission disclosure  
10 forms with respect to such duty suspensions  
11 and reductions submitted under paragraph  
12 (1)(B).

13           (B) PUBLIC AVAILABILITY OF PROPOSED  
14 DUTY SUSPENSIONS AND REDUCTIONS.—Not  
15 later than 15 days after the expiration of the  
16 60-day period specified in paragraph (1), the  
17 Commission shall publish on a publicly available  
18 Internet website of the Commission the pro-  
19 posed duty suspensions and reductions sub-  
20 mitted under paragraph (1)(A) and the Com-  
21 mission disclosure forms with respect to such  
22 duty suspensions and reductions submitted  
23 under paragraph (1)(B).

24           (C) COMMISSION REPORTS TO CON-  
25 GRESS.—Not later than the end of the 90-day

1 period beginning on the date of publication of  
2 the proposed duty suspensions and reductions  
3 under subparagraph (B), the Commission shall  
4 submit to the appropriate congressional com-  
5 mittees a report on each proposed duty suspen-  
6 sion or reduction submitted pursuant to sub-  
7 section (b)(1) or paragraph (1)(A) that con-  
8 tains the following information:

9 (i) A determination of whether or not  
10 domestic production of the article that is  
11 the subject of the proposed duty suspen-  
12 sion or reduction exists and, if such pro-  
13 duction exists, whether or not a domestic  
14 producer of the article objects to the pro-  
15 posed duty suspension or reduction.

16 (ii) Any technical changes to the arti-  
17 cle description that are necessary for pur-  
18 poses of administration when articles are  
19 presented for importation.

20 (iii) The amount of tariff revenue that  
21 would no longer be collected if the pro-  
22 posed duty suspension or reduction takes  
23 effect.

24 (iv) A determination of whether or not  
25 the proposed duty suspension or reduction

1 is available to any person that imports the  
2 article that is the subject of the proposed  
3 duty suspension or reduction.

4 (3) PROCEDURES.—The Commission shall pre-  
5 scribe and publish on a publicly available Internet  
6 website of the Commission procedures for complying  
7 with the requirements of this subsection.

8 (4) AUTHORITIES DESCRIBED.—The Commis-  
9 sion shall carry out this subsection pursuant to its  
10 authorities under section 332 of the Tariff Act of  
11 1930 (19 U.S.C. 1332).

12 (d) DEPARTMENT OF COMMERCE REPORT.—Not  
13 later than the end of the 90-day period beginning on the  
14 date of publication of the proposed duty suspensions and  
15 reductions under subsection (c)(2)(B), the Secretary of  
16 Commerce, in consultation with U.S. Customs and Border  
17 Protection and other relevant Federal agencies, shall sub-  
18 mit to the appropriate congressional committees a report  
19 on each proposed duty suspension and reduction sub-  
20 mitted pursuant to subsection (b)(1) or (c)(1)(A) that in-  
21 cludes the following information:

22 (1) A determination of whether or not domestic  
23 production of the article that is the subject of the  
24 proposed duty suspension or reduction exists and, if  
25 such production exists, whether or not a domestic

1 producer of the article objects to the proposed duty  
2 suspension or reduction.

3 (2) Any technical changes to the article descrip-  
4 tion that are necessary for purposes of administra-  
5 tion when articles are presented for importation.

6 (e) **RULE OF CONSTRUCTION.**—A proposed duty sus-  
7 pension or reduction submitted under this section by a  
8 Member of Congress shall receive treatment no more fa-  
9 vorable than the treatment received by a proposed duty  
10 suspension or reduction submitted under this section by  
11 a member of the public.

12 **SEC. 804. REPORT ON EFFECTS OF DUTY SUSPENSIONS**  
13 **AND REDUCTIONS ON UNITED STATES ECON-**  
14 **OMY.**

15 (a) **IN GENERAL.**—Not later than May 1, 2018, and  
16 May 1, 2020, the Commission shall submit to the appro-  
17 priate congressional committees a report on the effects on  
18 the United States economy of temporary duty suspensions  
19 and reductions enacted pursuant to this title, including a  
20 broad assessment of the economic effects of such duty sus-  
21 pensions and reductions on producers, purchasers, and  
22 consumers in the United States, using case studies de-  
23 scribing such effects on selected industries or by type of  
24 article as available data permit.

1 (b) RECOMMENDATIONS.—The Commission shall also  
2 solicit and append to the report required under subsection  
3 (a) recommendations with respect to those domestic indus-  
4 try sectors or specific domestic industries that might ben-  
5 efit from permanent duty suspensions and reductions or  
6 elimination of duties, either through a unilateral action of  
7 the United States or through negotiations for reciprocal  
8 tariff agreements, with a particular focus on inequities  
9 created by tariff inversions.

10 (c) FORM OF REPORT.—Each report required by this  
11 section shall be submitted in unclassified form, but may  
12 include a classified annex.

13 **SEC. 805. JUDICIAL REVIEW PRECLUDED.**

14 The exercise of functions under this title shall not  
15 be subject to judicial review.

16 **SEC. 806. DEFINITIONS.**

17 In this title:

18 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
19 TEES.—The term “appropriate congressional com-  
20 mittees” means the Committee on Ways and Means  
21 of the House of Representatives and the Committee  
22 on Finance of the Senate.

23 (2) COMMISSION.—The term “Commission”  
24 means the United States International Trade Com-  
25 mission.

1           (3) COMMISSION DISCLOSURE FORM.—The  
2 term “Commission disclosure form” means, with re-  
3 spect to a proposed duty suspension or reduction, a  
4 document submitted by a member of the public to  
5 the Commission that contains the following:

6           (A) The contact information for any known  
7 importers of the article to which the proposed  
8 duty suspension or reduction would apply.

9           (B) A certification by the member of the  
10 public that the proposed duty suspension or re-  
11 duction is available to any person importing the  
12 article to which the proposed duty suspension  
13 or reduction would apply.

14           (4) DOMESTIC PRODUCER.—The term “domes-  
15 tic producer” means a person that demonstrates  
16 production, or imminent production, in the United  
17 States of an article that is identical to, or like or di-  
18 rectly competitive with, an article to which a pro-  
19 posed duty suspension or reduction would apply.

20           (5) DUTY SUSPENSION OR REDUCTION.—

21           (A) IN GENERAL.—The term “duty sus-  
22 pension or reduction” means an amendment to  
23 subchapter II of chapter 99 of the Harmonized  
24 Tariff Schedule of the United States that—

1 (i)(I) extends an existing temporary  
2 duty suspension or reduction of duty on an  
3 article under that subchapter; or

4 (II) provides for a new temporary  
5 duty suspension or reduction of duty on an  
6 article under that subchapter; and

7 (ii) otherwise meets the requirements  
8 described in subparagraph (B).

9 (B) REQUIREMENTS.—A duty suspension  
10 or reduction meets the requirements described  
11 in this subparagraph if—

12 (i) the duty suspension or reduction  
13 can be administered by U.S. Customs and  
14 Border Protection;

15 (ii) the estimated loss in revenue to  
16 the United States from the duty suspen-  
17 sion or reduction does not exceed \$500,000  
18 in a calendar year during which the duty  
19 suspension or reduction would be in effect,  
20 as determined by the Congressional Budg-  
21 et Office; and

22 (iii) the duty suspension or reduction  
23 is available to any person importing the ar-  
24 ticle that is the subject of the duty suspen-  
25 sion or reduction.

1           (6) MEMBER OF CONGRESS.—The term “Mem-  
2           ber of Congress” means a Senator or a Representa-  
3           tive in, or Delegate or Resident Commissioner to,  
4           Congress.

5           (7) MISCELLANEOUS TARIFF BILL.—The term  
6           “miscellaneous tariff bill” means a bill of either  
7           House of Congress that contains only—

8                   (A) duty suspensions and reductions  
9           that—

10                           (i) meet the applicable requirements  
11           for—

12                                   (I) consideration of duty suspen-  
13                                   sions and reductions described in sec-  
14                                   tion 803; or

15                                   (II) any other process required  
16                                   under the Rules of the House of Rep-  
17                                   resentatives or the Senate; and

18                                   (ii) are not the subject of an objection  
19           because such duty suspensions and reduc-  
20           tions do not comply with the requirements  
21           of this title from—

22                                   (I) a Member of Congress; or

23                                   (II) a domestic producer, as con-  
24           tained in comments submitted to the  
25           appropriate congressional committees,

1 the Commission, or the Department of  
2 Commerce under section 803; and  
3 (B) provisions included in bills introduced  
4 in the House of Representatives or the Senate  
5 pursuant to a process described in subpara-  
6 graph (A)(i)(II) that correct an error in the  
7 text or administration of a provision of the  
8 Harmonized Tariff Schedule of the United  
9 States.

## 10 **TITLE IX—MISCELLANEOUS** 11 **PROVISIONS**

### 12 **SEC. 901. DE MINIMIS VALUE.**

13 (a) FINDINGS.—Congress makes the following find-  
14 ings:

15 (1) Modernizing international customs is crit-  
16 ical for United States businesses of all sizes, con-  
17 sumers in the United States, and the economic  
18 growth of the United States.

19 (2) Higher thresholds for the value of articles  
20 that may be entered informally and free of duty pro-  
21 vide significant economic benefits to businesses and  
22 consumers in the United States and the economy of  
23 the United States through costs savings and reduc-  
24 tions in trade transaction costs.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-  
2 gress that the United States Trade Representative should  
3 encourage other countries, through bilateral, regional, and  
4 multilateral fora, to establish commercially meaningful de  
5 minimis values for express and postal shipments that are  
6 exempt from customs duties and taxes and from certain  
7 entry documentation requirements, as appropriate.

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

11 (d) EFFECTIVE DATE.—The amendment made by  
12 subsection (c) shall apply with respect to articles entered,  
13 or withdrawn from warehouse for consumption, on or after  
14 the 15th day after the date of the enactment of this Act.

15 **SEC. 902. CONSULTATION ON TRADE AND CUSTOMS REV-**  
16 **ENUE FUNCTIONS.**

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

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

24 (2) in paragraph (2)(A), by striking “not later  
25 than 30 days prior to the finalization of” and insert-

1 ing “not later than 60 days before proposing, and  
2 not later than 60 days before finalizing.”.

3 **SEC. 903. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

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

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

17 (1) by striking “the Customs Service” each  
18 place it appears and inserting “U.S. Customs and  
19 Border Protection”;

20 (2) in subsection (d)(2)(B), by striking “The  
21 Customs Service” and inserting “U.S. Customs and  
22 Border Protection”; and

23 (3) in subsection (g)(2)(B), by striking “Sec-  
24 retary’s notice” and inserting “notice under sub-  
25 paragraph (A)”.

1 **SEC. 904. AMENDMENTS TO CHAPTER 98 OF THE HAR-**  
2 **MONIZED TARIFF SCHEDULE OF THE UNITED**  
3 **STATES.**

4 (a) ARTICLES EXPORTED AND RETURNED, AD-  
5 VANCED OR IMPROVED ABROAD.—

6 (1) IN GENERAL.—U.S. Note 3 to subchapter  
7 II of chapter 98 of the Harmonized Tariff Schedule  
8 of the United States is amended by adding at the  
9 end the following:

10 “(f)(1) For purposes of subheadings 9802.00.40 and  
11 9802.00.50, fungible articles exported from the United  
12 States for the purposes described in such subheadings—

13 “(A) may be commingled; and

14 “(B) the origin, value, and classification of such  
15 articles may be accounted for using an inventory  
16 management method.

17 “(2) If a person chooses to use an inventory manage-  
18 ment method under this paragraph with respect to fun-  
19 gible articles, the person shall use the same inventory  
20 management method for any other articles with respect  
21 to which the person claims fungibility under this para-  
22 graph.

23 “(3) For the purposes of this paragraph—

24 “(A) the term ‘fungible articles’ means mer-  
25 chandise or articles that, for commercial purposes,  
26 are identical or interchangeable in all situations; and

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

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

11          (b) MODIFICATION OF PROVISIONS RELATING TO  
12 RETURNED PROPERTY.—

13           (1) IN GENERAL.—The article description for  
14 heading 9801.00.10 of the Harmonized Tariff  
15 Schedule of the United States is amended by insert-  
16 ing after “exported” the following: “, or any other  
17 products when returned within 3 years after having  
18 been exported”.

19           (2) EFFECTIVE DATE.—The amendment made  
20 by paragraph (1) applies to articles entered, or with-  
21 drawn from warehouse for consumption, on or after  
22 the date that is 60 days after the date of the enact-  
23 ment of this Act.



1           (1) in subparagraph (v), by striking “and” at  
2 the end;

3           (2) in subparagraph (vi), by adding “and” at  
4 the end;

5           (3) by inserting after subparagraph (vi) (as so  
6 amended) the following new subparagraph:

7                   “(vii) residue of bulk cargo contained in  
8 instruments of international traffic previously  
9 exported from the United States,”; and

10           (4) by adding at the end of the flush text fol-  
11 lowing subparagraph (vii) (as so added) the fol-  
12 lowing: “For purposes of subparagraph (vii) of this  
13 paragraph: The term ‘residue’ means material of  
14 bulk cargo that remains in an instrument of inter-  
15 national traffic after the bulk cargo is removed, with  
16 a quantity, by weight or volume, not exceeding 7  
17 percent of the bulk cargo, and with no or de minimis  
18 value. The term ‘bulk cargo’ means cargo that is  
19 unpackaged and is in either solid, liquid, or gaseous  
20 form. The term ‘instruments of international traffic’  
21 means containers or holders, capable of and suitable  
22 for repeated use, such as lift vans, cargo vans, ship-  
23 ping tanks, skids, pallets, caul boards, and cores for  
24 textile fabrics, arriving (whether loaded or empty) in  
25 use or to be used in the shipment of merchandise in

1 international traffic, and any additional articles or  
2 classes of articles that the Commissioner responsible  
3 for U.S. Customs and Border Protection designates  
4 as instruments of international traffic.”.

5 (b) **EFFECTIVE DATE.**—The amendments made by  
6 subsection (a) take effect on the date of the enactment  
7 of this Act and apply with respect to residue of bulk cargo  
8 contained in instruments of international traffic that are  
9 imported into the customs territory of the United States  
10 on or after such date of enactment and that previously  
11 have been exported from the United States.

12 **SEC. 906. DRAWBACK AND REFUNDS.**

13 (a) **ARTICLES MADE FROM IMPORTED MERCHAN-**  
14 **DISE.**—Section 313(a) of the Tariff Act of 1930 (19  
15 U.S.C. 1313(a)) is amended by striking “the full amount  
16 of the duties paid upon the merchandise so used shall be  
17 refunded as drawback, less 1 per centum of such duties,  
18 except that such” and inserting “an amount calculated  
19 pursuant to regulations prescribed by the Secretary of the  
20 Treasury under subsection (l) shall be refunded as draw-  
21 back, except that”.

22 (b) **SUBSTITUTION FOR DRAWBACK PURPOSES.**—  
23 Section 313(b) of the Tariff Act of 1930 (19 U.S.C.  
24 1313(b)) is amended—

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

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

4           (2) by striking “and any other merchandise  
5 (whether imported or domestic) of the same kind  
6 and quality are” and inserting “or merchandise clas-  
7 sifiable under the same 8-digit HTS subheading  
8 number as such imported merchandise is”;

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

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

15           (5) by inserting “or articles classifiable under  
16 the same 8-digit HTS subheading number as such  
17 articles,” after “any such articles,”;

18           (6) by striking “an amount of drawback equal  
19 to” and all that follows through the end period and  
20 inserting “an amount calculated pursuant to regula-  
21 tions prescribed by the Secretary of the Treasury  
22 under subsection (l), but only if those articles have  
23 not been used prior to such exportation or destruc-  
24 tion.”; and

25           (7) by adding at the end the following:

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

3           “(A) MANUFACTURERS AND PRO-  
4 DUCERS.—Drawback shall be allowed under  
5 paragraph (1) with respect to an article manu-  
6 factured or produced using imported merchan-  
7 dise or other merchandise classifiable under the  
8 same 8-digit HTS subheading number as such  
9 imported merchandise only if the manufacturer  
10 or producer of the article received such im-  
11 ported merchandise or such other merchandise,  
12 directly or indirectly, from the importer.

13           “(B) EXPORTERS AND DESTROYERS.—  
14 Drawback shall be allowed under paragraph (1)  
15 with respect to a manufactured or produced ar-  
16 ticle that is exported or destroyed only if the  
17 exporter or destroyer received that article or an  
18 article classifiable under the same 8-digit HTS  
19 subheading number as that article, directly or  
20 indirectly, from the manufacturer or producer.

21           “(C) EVIDENCE OF TRANSFER.—Transfers  
22 of merchandise under subparagraph (A) and  
23 transfers of articles under subparagraph (B)  
24 may be evidenced by business records kept in  
25 the normal course of business and no additional

1 certificates of transfer or manufacture shall be  
2 required.

3 “(3) SUBMISSION OF BILL OF MATERIALS OR  
4 FORMULA.—

5 “(A) IN GENERAL.—Drawback shall be al-  
6 lowed under paragraph (1) with respect to an  
7 article manufactured or produced using im-  
8 ported merchandise or other merchandise classi-  
9 fiable under the same 8-digit HTS subheading  
10 number as such imported merchandise only if  
11 the person making the drawback claim submits  
12 with the claim a bill of materials or formula  
13 identifying the merchandise and article by the  
14 8-digit HTS subheading number and the quan-  
15 tity of the merchandise.

16 “(B) BILL OF MATERIALS AND FORMULA  
17 DEFINED.—In this paragraph, the terms ‘bill of  
18 materials’ and ‘formula’ mean records kept in  
19 the normal course of business that identify each  
20 component incorporated into a manufactured or  
21 produced article or that identify the quantity of  
22 each element, material, chemical, mixture, or  
23 other substance incorporated into a manufac-  
24 tured article.

1           “(4) SPECIAL RULE FOR SOUGHT CHEMICAL  
2 ELEMENTS.—

3           “(A) IN GENERAL.—For purposes of para-  
4 graph (1), a sought chemical element may be—

5                   “(i) considered imported merchandise,  
6                   or merchandise classifiable under the same  
7                   8-digit HTS subheading number as such  
8                   imported merchandise, used in the manu-  
9                   facture or production of an article as de-  
10                  scribed in paragraph (1); and

11                   “(ii) substituted for source material  
12                   containing that sought chemical element,  
13                   without regard to whether the sought  
14                   chemical element and the source material  
15                   are classifiable under the same 8-digit  
16                   HTS subheading number, and apportioned  
17                   quantitatively, as appropriate.

18           “(B) SOUGHT CHEMICAL ELEMENT DE-  
19 FINED.—In this paragraph, the term ‘sought  
20 chemical element’ means an element listed in  
21 the Periodic Table of Elements that is imported  
22 into the United States or a chemical compound  
23 consisting of those elements, either separately  
24 in elemental form or contained in source mate-  
25 rial.”.

1           (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR  
2 SPECIFICATIONS.—Section 313(c) of the Tariff Act of  
3 1930 (19 U.S.C. 1313(c)) is amended—

4           (1) in paragraph (1)—

5                 (A) in subparagraph (C)(ii), by striking  
6 “under a certificate of delivery” each place it  
7 appears;

8                 (B) in subparagraph (D)—

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

10                    and

11                    (ii) by striking “the Customs Service”  
12 and inserting “U.S. Customs and Border  
13 Protection”; and

14                 (C) in the flush text at the end, by striking  
15 “the full amount of the duties paid upon such  
16 merchandise, less 1 percent,” and inserting “an  
17 amount calculated pursuant to regulations pre-  
18 scribed by the Secretary of the Treasury under  
19 subsection (1)”;

20                 (2) in paragraph (2), by striking “the Customs  
21 Service” and inserting “U.S. Customs and Border  
22 Protection”; and

23                 (3) by amending paragraph (3) to read as fol-  
24 lows:

1           “(3) EVIDENCE OF TRANSFERS.—Transfers of  
2 merchandise under paragraph (1) may be evidenced  
3 by business records kept in the normal course of  
4 business and no additional certificates of transfer  
5 shall be required.”.

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

9           “(i) PROOF OF EXPORTATION.—A person claiming  
10 drawback under this section based on the exportation of  
11 an article shall provide proof of the exportation of the arti-  
12 cle. Such proof of exportation—

13           “(1) shall establish fully the date and fact of  
14 exportation and the identity of the exporter; and

15           “(2) may be established through the use of  
16 records kept in the normal course of business or  
17 through an electronic export system of the United  
18 States Government, as determined by the Commis-  
19 sioner responsible for U.S. Customs and Border  
20 Protection.”.

21           (e) UNUSED MERCHANDISE DRAWBACK.—Section  
22 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is  
23 amended—

24           (1) in paragraph (1)—

1 (A) in subparagraph (A), in the matter  
2 preceding clause (i)—

3 (i) by striking “3-year” and inserting  
4 “5-year”; and

5 (ii) by inserting “and before the draw-  
6 back claim is filed” after “the date of im-  
7 portation”; and

8 (B) in the flush text at the end, by striking  
9 “99 percent of the amount of each duty, tax, or  
10 fee so paid” and inserting “an amount cal-  
11 culated pursuant to regulations prescribed by  
12 the Secretary of the Treasury under subsection  
13 (1)”;

14 (2) in paragraph (2)—

15 (A) in the matter preceding subparagraph  
16 (A), by striking “paragraph (4)” and inserting  
17 “paragraphs (4), (5), and (6)”;

18 (B) in subparagraph (A), by striking  
19 “commercially interchangeable with” and in-  
20 serting “classifiable under the same 8-digit  
21 HTS subheading number as”;

22 (C) in subparagraph (B)—

23 (i) by striking “3-year” and inserting  
24 “5-year”; and

1 (ii) by inserting “and before the draw-  
2 back claim is filed” after “the imported  
3 merchandise”;

4 (D) in subparagraph (C)(ii), by striking  
5 subclause (II) and inserting the following:

6 “(II) received the imported mer-  
7 chandise, other merchandise classifi-  
8 able under the same 8-digit HTS sub-  
9 heading number as such imported  
10 merchandise, or any combination of  
11 such imported merchandise and such  
12 other merchandise, directly or indi-  
13 rectly from the person who imported  
14 and paid any duties, taxes, and fees  
15 imposed under Federal law upon im-  
16 portation or entry and due on the im-  
17 ported merchandise (and any such  
18 transferred merchandise, regardless of  
19 its origin, will be treated as the im-  
20 ported merchandise and any retained  
21 merchandise will be treated as domes-  
22 tic merchandise);” and

23 (E) in the flush text at the end—

24 (i) by striking “the amount of each  
25 such duty, tax, and fee” and all that fol-

1            lows through “99 percent of that duty, tax,  
2            or fee” and inserting “an amount cal-  
3            culated pursuant to regulations prescribed  
4            by the Secretary of the Treasury under  
5            subsection (l) shall be refunded as draw-  
6            back”; and

7            (ii) by striking the last sentence and  
8            inserting the following: “Notwithstanding  
9            subparagraph (A), drawback shall be al-  
10          lowed under this paragraph with respect to  
11          wine if the imported wine and the exported  
12          wine are of the same color and the price  
13          variation between the imported wine and  
14          the exported wine does not exceed 50 per-  
15          cent. Transfers of merchandise may be evi-  
16          denced by business records kept in the nor-  
17          mal course of business and no additional  
18          certificates of transfer shall be required.”;

19          (3) in paragraph (3)(B), by striking “the com-  
20          mercially interchangeable merchandise” and insert-  
21          ing “merchandise classifiable under the same 8-digit  
22          HTS subheading number as such imported merchan-  
23          dise”; and

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

1           “(5)(A) For purposes of paragraph (2) and ex-  
2           cept as provided in subparagraph (B), merchandise  
3           may not be substituted for imported merchandise for  
4           drawback purposes based on the 8-digit HTS sub-  
5           heading number if the article description for the 8-  
6           digit HTS subheading number under which the im-  
7           ported merchandise is classified begins with the term  
8           ‘other’.

9           “(B) In cases described in subparagraph (A),  
10          merchandise may be substituted for imported mer-  
11          chandise for drawback purposes if—

12                 “(i) the other merchandise and such im-  
13                 ported merchandise are classifiable under the  
14                 same 10-digit HTS statistical reporting num-  
15                 ber; and

16                 “(ii) the article description for that 10-  
17                 digit HTS statistical reporting number does not  
18                 begin with the term ‘other’.

19          “(6)(A) For purposes of paragraph (2), a draw-  
20          back claimant may use the first 8 digits of the 10-  
21          digit Schedule B number for merchandise or an arti-  
22          cle to determine if the merchandise or article is clas-  
23          sifiable under the same 8-digit HTS subheading  
24          number as the imported merchandise, without re-

1       gard to whether the Schedule B number corresponds  
2       to more than one 8-digit HTS subheading number.

3               “(B) In this paragraph, the term ‘Schedule B’  
4       means the Department of Commerce Schedule B,  
5       Statistical Classification of Domestic and Foreign  
6       Commodities Exported from the United States.”.

7       (f) LIABILITY FOR DRAWBACK CLAIMS.—Section  
8       313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is  
9       amended to read as follows:

10       “(k) LIABILITY FOR DRAWBACK CLAIMS.—

11               “(1) IN GENERAL.—Any person making a claim  
12       for drawback under this section shall be liable for  
13       the full amount of the drawback claimed.

14               “(2) LIABILITY OF IMPORTERS.—An importer  
15       shall be liable for any drawback claim made by an-  
16       other person with respect to merchandise imported  
17       by the importer in an amount equal to the lesser  
18       of—

19                       “(A) the amount of duties, taxes, and fees  
20       that the person claimed with respect to the im-  
21       ported merchandise; or

22                       “(B) the amount of duties, taxes, and fees  
23       that the importer authorized the other person  
24       to claim with respect to the imported merchan-  
25       dise.

1           “(3) JOINT AND SEVERAL LIABILITY.—Persons  
2 described in paragraphs (1) and (2) shall be jointly  
3 and severally liable for the amount described in  
4 paragraph (2).”.

5           (g) REGULATIONS.—Section 313(l) of the Tariff Act  
6 of 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

7           “(1) REGULATIONS.—

8           “(1) IN GENERAL.—Allowance of the privileges  
9 provided for in this section shall be subject to com-  
10 pliance with such rules and regulations as the Sec-  
11 retary of the Treasury shall prescribe.

12           “(2) CALCULATION OF DRAWBACK.—

13           “(A) IN GENERAL.—Not later than the  
14 date that is 2 years after the date of the enact-  
15 ment of the Trade Facilitation and Trade En-  
16 forcement Act of 2015 (or, if later, the effective  
17 date provided for in section 906(q)(2)(B) of  
18 that Act), the Secretary shall prescribe regula-  
19 tions for determining the calculation of  
20 amounts refunded as drawback under this sec-  
21 tion.

22           “(B) REQUIREMENTS.—The regulations  
23 required by subparagraph (A) for determining  
24 the calculation of amounts refunded as draw-  
25 back under this section shall provide for a re-

1 fund of 99 percent of the duties, taxes, and fees  
2 paid with respect to the imported merchandise,  
3 except that where there is substitution of the  
4 merchandise or article, then—

5 “(i) in the case of an article that is  
6 exported, the amount of the refund shall  
7 be equal to 99 percent of the lesser of—

8 “(I) the amount of duties, taxes,  
9 and fees paid with respect to the im-  
10 ported merchandise; or

11 “(II) the amount of duties, taxes,  
12 and fees that would apply to the ex-  
13 ported article if the exported article  
14 were imported; and

15 “(ii) in the case of an article that is  
16 destroyed, the amount of the refund shall  
17 be an amount that is—

18 “(I) equal to 99 percent of the  
19 lesser of—

20 “(aa) the amount of duties,  
21 taxes, and fees paid with respect  
22 to the imported merchandise; and

23 “(bb) the amount of duties,  
24 taxes, and fees that would apply  
25 to the destroyed article if the de-

1                   stroyed article were imported;  
2                   and

3                   “(II) reduced by the value of ma-  
4                   terials recovered during destruction as  
5                   provided in subsection (x).

6                   “(3) STATUS REPORTS ON REGULATIONS.—Not  
7                   later than the date that is one year after the date  
8                   of the enactment of the Trade Facilitation and  
9                   Trade Enforcement Act of 2015, and annually there-  
10                  after until the regulations required by paragraph (2)  
11                  are final, the Secretary shall submit to Congress a  
12                  report on the status of those regulations.”.

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

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

19                  (2) in paragraph (3)(A)—

20                          (A) in clause (ii)(III), by striking “, as so  
21                          certified in a certificate of delivery or certificate  
22                          of manufacture and delivery”; and

23                          (B) in the flush text at the end—

1 (i) by striking “, as so designated on  
2 the certificate of delivery or certificate of  
3 manufacture and delivery”; and

4 (ii) by striking the last sentence and  
5 inserting the following: “The party trans-  
6 ferring the merchandise shall maintain  
7 records kept in the normal course of busi-  
8 ness to demonstrate the transfer.”.

9 (i) PACKAGING MATERIAL.—Section 313(q) of the  
10 Tariff Act of 1930 (19 U.S.C. 1313(q)) is amended—

11 (1) in paragraph (1), by striking “of 99 percent  
12 of any duty, tax, or fee imposed under Federal law  
13 on such imported material” and inserting “in an  
14 amount calculated pursuant to regulations pre-  
15 scribed by the Secretary of the Treasury under sub-  
16 section (1)”;

17 (2) in paragraph (2), by striking “of 99 percent  
18 of any duty, tax, or fee imposed under Federal law  
19 on the imported or substituted merchandise used to  
20 manufacture or produce such material” and insert-  
21 ing “in an amount calculated pursuant to regula-  
22 tions prescribed by the Secretary of the Treasury  
23 under subsection (1)”;

24 (3) in paragraph (3), by striking “they contain”  
25 and inserting “it contains”.

1 (j) FILING OF DRAWBACK CLAIMS.—Section 313(r)  
2 of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amend-  
3 ed—

4 (1) in paragraph (1)—

5 (A) by striking the first sentence and in-  
6 serting the following: “A drawback entry shall  
7 be filed or applied for, as applicable, not later  
8 than 5 years after the date on which merchan-  
9 dise on which drawback is claimed was im-  
10 ported.”;

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

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

16 (2) in paragraph (3)—

17 (A) in subparagraph (A)—

18 (i) in the matter preceding clause (i),  
19 by striking “The Customs Service” and in-  
20 serting “U.S. Customs and Border Protec-  
21 tion”;

22 (ii) in clauses (i) and (ii), by striking  
23 “the Customs Service” each place it ap-  
24 pears and inserting “U.S. Customs and  
25 Border Protection”; and

1 (iii) in clause (ii)(I), by striking “3-  
2 year” and inserting “5-year”; and

3 (B) in subparagraph (B), by striking “the  
4 periods of time for retaining records set forth  
5 in subsection (t) of this section and” and in-  
6 serting “the period of time for retaining records  
7 set forth in”; and

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

9 “(4) All drawback claims filed on and after the  
10 date that is 2 years after the date of the enactment  
11 of the Trade Facilitation and Trade Enforcement  
12 Act of 2015 (or, if later, the effective date provided  
13 for in section 906(q)(2)(B) of that Act) shall be filed  
14 electronically.”.

15 (k) DESIGNATION OF MERCHANDISE BY SUC-  
16 CESSOR.—Section 313(s) of the Tariff Act of 1930 (19  
17 U.S.C. 1313(s)) is amended—

18 (1) in paragraph (2), by striking subparagraph  
19 (B) and inserting the following:

20 “(B) subject to paragraphs (5) and (6) of  
21 subsection (j), imported merchandise, other  
22 merchandise classifiable under the same 8-digit  
23 HTS subheading number as such imported  
24 merchandise, or any combination of such im-  
25 ported merchandise and such other merchan-

1           dise, that the predecessor received, before the  
2           date of succession, from the person who im-  
3           ported and paid any duties, taxes, and fees due  
4           on the imported merchandise;” and

5           (2) in paragraph (4), by striking “certifies  
6           that” and all that follows and inserting “certifies  
7           that the transferred merchandise was not and will  
8           not be claimed by the predecessor.”.

9           (l) DRAWBACK CERTIFICATES.—Section 313 of the  
10          Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-  
11          ing subsection (t).

12          (m) DRAWBACK FOR RECOVERED MATERIALS.—Sec-  
13          tion 313(x) of the Tariff Act of 1930 (19 U.S.C. 1313(x))  
14          is amended by striking “and (c)” and inserting “(c), and  
15          (j)”.

16          (n) DEFINITIONS.—Section 313 of the Tariff Act of  
17          1930 (19 U.S.C. 1313) is amended by adding at the end  
18          the following:

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

20           “(1) DIRECTLY.—The term ‘directly’ means a  
21           transfer of merchandise or an article from one per-  
22           son to another person without any intermediate  
23           transfer.

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

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

5           (o) RECORDKEEPING.—Section 508(c)(3) of the Tar-  
6           iff Act of 1930 (19 U.S.C. 1508(c)(3)) is amended—

7           (1) by striking “3rd” and inserting “5th”; and

8           (2) by striking “payment” and inserting “liq-  
9           uidation”.

10          (p) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
11          PORT.—

12           (1) IN GENERAL.—Not later than one year  
13           after the issuance of the regulations required by sub-  
14           section (l)(2) of section 313 of the Tariff Act of  
15           1930, as added by subsection (g), the Comptroller  
16           General of the United States shall submit to the  
17           Committee on Finance of the Senate and the Com-  
18           mittee on Ways and Means of the House of Rep-  
19           resentatives a report on the modernization of draw-  
20           back and refunds under section 313 of the Tariff  
21           Act of 1930, as amended by this section.

22           (2) CONTENTS.—The report required by para-  
23           graph (1) include the following:

1 (A) An assessment of the modernization of  
 2 drawback and refunds under section 313 of the  
 3 Tariff Act of 1930, as amended by this section.

4 (B) A description of drawback claims that  
 5 were permissible before the effective date pro-  
 6 vided for in subsection (q) that are not permis-  
 7 sible after that effective date and an identifica-  
 8 tion of industries most affected.

9 (C) A description of drawback claims that  
 10 were not permissible before the effective date  
 11 provided for in subsection (q) that are permis-  
 12 sible after that effective date and an identifica-  
 13 tion of industries most affected.

14 (q) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by  
 16 this section shall—

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

19 (B) except as provided in paragraphs  
 20 (2)(B) and (3), apply to drawback claims filed  
 21 on or after the date that is 2 years after such  
 22 date of enactment.

23 (2) REPORTING OF OPERABILITY OF AUTO-  
 24 MATED COMMERCIAL ENVIRONMENT COMPUTER SYS-  
 25 TEM.—

1           (A) IN GENERAL.—Not later than one year  
2 after the date of the enactment of this Act, and  
3 not later than 2 years after such date of enact-  
4 ment, the Secretary of the Treasury shall sub-  
5 mit to Congress a report on—

6           (i) the date on which the Automated  
7 Commercial Environment will be ready to  
8 process drawback claims; and

9           (ii) the date on which the Automated  
10 Export System will be ready to accept  
11 proof of exportation under subsection (i) of  
12 section 313 of the Tariff Act of 1930, as  
13 amended by subsection (d).

14       (B) DELAY OF EFFECTIVE DATE.—If the  
15 Secretary indicates in the report required by  
16 subparagraph (A) that the Automated Commer-  
17 cial Environment will not be ready to process  
18 drawback claims by the date that is 2 years  
19 after the date of the enactment of this Act, the  
20 amendments made by this section shall apply to  
21 drawback claims filed on and after the date on  
22 which the Secretary certifies that the Auto-  
23 mated Commercial Environment is ready to  
24 process drawback claims.

1           (3) TRANSITION RULE.—During the one-year  
2           period beginning on the date that is 2 years after  
3           the date of the enactment of this Act (or, if later,  
4           the effective date provided for in paragraph (2)(B)),  
5           a person may elect to file a claim for drawback  
6           under—

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

9                     (B) section 313 of the Tariff Act of 1930,  
10                    as in effect on the day before the date of the  
11                    enactment of this Act.

12 **SEC. 907. INCLUSION OF CERTAIN INFORMATION IN SUB-**  
13 **MISSION OF NOMINATION FOR APPOINT-**  
14 **MENT AS DEPUTY UNITED STATES TRADE**  
15 **REPRESENTATIVE.**

16           Section 141(b) of the Trade Act of 1974 (19 U.S.C.  
17 2171(b)) is amended by adding at the end the following:

18           “(5) When the President submits to the Senate for  
19 its advice and consent a nomination of an individual for  
20 appointment as a Deputy United States Trade Represent-  
21 ative under paragraph (2), the President shall include in  
22 that submission information on the country, regional of-  
23 fices, and functions of the Office of the United States  
24 Trade Representative with respect to which that individual  
25 will have responsibility.”.

1 **SEC. 908. BIENNIAL REPORTS REGARDING COMPETITIVE-**  
2 **NESS ISSUES FACING THE UNITED STATES**  
3 **ECONOMY AND COMPETITIVE CONDITIONS**  
4 **FOR CERTAIN KEY UNITED STATES INDUS-**  
5 **TRIES.**

6 (a) IN GENERAL.—The United States International  
7 Trade Commission shall conduct a series of investigations,  
8 and submit a report on each such investigation in accord-  
9 ance with subsection (c), regarding competitiveness issues  
10 facing the economy of the United States and competitive  
11 conditions for certain key United States industries.

12 (b) CONTENTS OF REPORT.—

13 (1) IN GENERAL.—Each report required by  
14 subsection (a) shall include, to the extent prac-  
15 ticable, the following:

16 (A) A detailed assessment of competitive-  
17 ness issues facing the economy of the United  
18 States, over the 10-year period beginning on  
19 the date on which the report is submitted, that  
20 includes—

21 (i) projections, over that 10-year pe-  
22 riod, of economic measures, such as meas-  
23 ures relating to production in the United  
24 States and United States trade, for the  
25 economy of the United States and for key  
26 United States industries, based on ongoing

1 trends in the economy of the United States  
2 and global economies and incorporating es-  
3 timates from prominent United States, for-  
4 eign, multinational, and private sector or-  
5 ganizations; and

6 (ii) a description of factors that drive  
7 economic growth, such as domestic produc-  
8 tivity, the United States workforce, foreign  
9 demand for United States goods and serv-  
10 ices, and industry-specific developments.

11 (B) A detailed assessment of a key United  
12 States industry or key United States industries  
13 that, to the extent practicable—

14 (i) identifies with respect to each such  
15 industry the principal factors driving com-  
16 petitiveness as of the date on which the re-  
17 port is submitted; and

18 (ii) describes, with respect to each  
19 such industry, the structure of the global  
20 industry, its market characteristics, cur-  
21 rent industry trends, relevant policies and  
22 programs of foreign governments, and  
23 principal factors affecting future competi-  
24 tiveness.

1           (2) SELECTION OF KEY UNITED STATES INDUS-  
2 TRIES.—

3           (A) IN GENERAL.—In conducting assess-  
4 ments required under paragraph (1)(B), the  
5 Commission shall, to the extent practicable, se-  
6 lect a different key United States industry or  
7 different key United States industries for pur-  
8 poses of each report required by subsection (a).

9           (B) CONSULTATIONS WITH CONGRESS.—  
10 The Commission shall consult with the Com-  
11 mittee on Finance of the Senate and the Com-  
12 mittee on Ways and Means of the House of  
13 Representatives before selecting the key United  
14 States industry or key United States industries  
15 for purposes of each report required by sub-  
16 section (a).

17 (c) SUBMISSION OF REPORTS.—

18           (1) IN GENERAL.—Not later than May 15,  
19 2017, and every 2 years thereafter through 2025,  
20 the Commission shall submit to the Committee on  
21 Finance of the Senate and the Committee on Ways  
22 and Means of the House of Representatives a report  
23 on the most recent investigation conducted under  
24 subsection (a).

1           (2) EXTENSION OF DEADLINE.—The Commis-  
2           sion may, after consultation with the Committee on  
3           Finance of the Senate and the Committee on Ways  
4           and Means of the House of Representatives, submit  
5           a report under paragraph (1) later than the date re-  
6           quired by that paragraph.

7           (3) CONFIDENTIAL BUSINESS INFORMATION.—  
8           A report submitted under paragraph (1) shall not  
9           include any confidential business information un-  
10          less—

11                   (A) the party that submitted the confiden-  
12                   tial business information to the Commission  
13                   had notice, at the time of submission, that the  
14                   information would be released by the Commis-  
15                   sion; or

16                   (B) that party consents to the release of  
17                   the information.

18          (d) KEY UNITED STATES INDUSTRY DEFINED.—In  
19          this section, the term “key United States industry” means  
20          a goods or services industry that—

21                   (1) contributes significantly to United States  
22                   economic activity and trade; or

23                   (2) is a potential growth area for the United  
24                   States and global markets.

1 **SEC. 909. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER**  
2 **PROTECTION AGREEMENTS.**

3 (a) IN GENERAL.—Not later than one year after en-  
4 tering into an agreement under a program specified in  
5 subsection (b), and annually thereafter until the termi-  
6 nation of the program, the Commissioner shall submit to  
7 the Committee on Finance of the Senate and the Com-  
8 mittee on Ways and Means of the House of Representa-  
9 tives a report that includes the following:

10 (1) A description of the development of the pro-  
11 gram.

12 (2) A description of the type of entity with  
13 which U.S. Customs and Border Protection entered  
14 into the agreement and the amount that entity reim-  
15 bursed U.S. Customs and Border Protection under  
16 the agreement.

17 (3) An identification of the type of port of entry  
18 to which the agreement relates and an assessment of  
19 how the agreement provides economic benefits at the  
20 port of entry.

21 (4) A description of the services provided by  
22 U.S. Customs and Border Protection under the  
23 agreement during the year preceding the submission  
24 of the report.

25 (5) The amount of fees collected under the  
26 agreement during that year.

1           (6) A detailed accounting of how the fees col-  
2           lected under the agreement have been spent during  
3           that year.

4           (7) A summary of any complaints or criticism  
5           received by U.S. Customs and Border Protection  
6           during that year regarding the agreement.

7           (8) An assessment of the compliance of the en-  
8           tity described in paragraph (2) with the terms of the  
9           agreement.

10          (9) Recommendations with respect to how ac-  
11          tivities conducted pursuant to the agreement could  
12          function more effectively or better produce economic  
13          benefits.

14          (10) A summary of the benefits to and chal-  
15          lenges faced by U.S. Customs and Border Protection  
16          and the entity described in paragraph (2) under the  
17          agreement.

18          (b) PROGRAM SPECIFIED.—A program specified in  
19          this subsection is—

20                (1) the program for entering into reimbursable  
21                fee agreements for the provision of U.S. Customs  
22                and Border Protection services established by section  
23                560 of the Department of Homeland Security Ap-  
24                propriations Act, 2013 (division D of Public Law  
25                113–6; 127 Stat. 378); or

1           (2) the pilot program authorizing U.S. Customs  
2           and Border Protection to enter into partnerships  
3           with private sector and government entities at ports  
4           of entry established by section 559 of the Depart-  
5           ment of Homeland Security Appropriations Act,  
6           2014 (division F of Public Law 113–76; 6 U.S.C.  
7           211 note).

8   **SEC. 910. CHARTER FLIGHTS.**

9           Section 13031(e)(1) of the Consolidated Omnibus  
10          Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1))  
11          is amended—

12           (1) by striking “(1) Notwithstanding section  
13           451 of the Tariff Act of 1930 (19 U.S.C. 1451) or  
14           any other provision of law (other than paragraph  
15           (2))” and inserting the following:

16           “(1)(A) Notwithstanding section 451 of the Tariff  
17          Act of 1930 (19 U.S.C. 1451) or any other provision of  
18          law (other than subparagraph (B) and paragraph (2))”;  
19          and

20           (2) by adding at the end the following:

21           “(B)(i) An appropriate officer of U.S. Customs and  
22          Border Protection may assign a sufficient number of em-  
23          ployees of U.S. Customs and Border Protection (if avail-  
24          able) to perform services described in clause (ii) for a  
25          charter air carrier (as defined in section 40102 of title

1 49, United States Code) for a charter flight arriving after  
 2 normal operating hours at an airport that is an established  
 3 port of entry serviced by U.S. Customs and Border Pro-  
 4 tection, notwithstanding that overtime funds for those  
 5 services are not available, if the charter air carrier—

6           “(I) not later than 4 hours before the flight ar-  
 7 rives, specifically requests that such services be pro-  
 8 vided; and

9           “(II) pays any overtime fees incurred in connec-  
 10 tion with such services.

11           “(ii) Services described in this clause are customs  
 12 services for passengers and their baggage or any other  
 13 such service that could lawfully be performed during reg-  
 14 ular hours of operation.”.

15 **SEC. 911. AMENDMENT TO TARIFF ACT OF 1930 TO REQUIRE**  
 16 **COUNTRY OF ORIGIN MARKING OF CERTAIN**  
 17 **CASTINGS.**

18           (a) IN GENERAL.—Section 304(e) of the Tariff Act  
 19 of 1930 (19 U.S.C. 1304(e)) is amended—

20           (1) in the subsection heading, by striking  
 21 “MANHOLE RINGS OR FRAMES, COVERS, AND AS-  
 22 SEMBLIES THEREOF” and inserting “CASTINGS”;

23           (2) by inserting “inlet frames, tree and trench  
 24 grates, lampposts, lamppost bases, cast utility poles,

1 bollards, hydrants, utility boxes,” before “manhole  
2 rings,”; and

3 (3) by adding at the end before the period the  
4 following: “in a location such that it will remain visi-  
5 ble after installation”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 subsection (a) take effect on the date of the enactment  
8 of this Act and apply with respect to the importation of  
9 castings described in such amendments on or after the  
10 date that is 180 days after such date of enactment.

11 **SEC. 912. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**  
12 **TION TO PROHIBITION ON IMPORTATION OF**  
13 **GOODS MADE WITH CONVICT LABOR,**  
14 **FORCED LABOR, OR INDENTURED LABOR; RE-**  
15 **PORT.**

16 (a) ELIMINATION OF CONSUMPTIVE DEMAND EX-  
17 CEPTION.—

18 (1) IN GENERAL.—Section 307 of the Tariff  
19 Act of 1930 (19 U.S.C. 1307) is amended by strik-  
20 ing “The provisions of this section” and all that fol-  
21 lows through “of the United States.”.

22 (2) EFFECTIVE DATE.—The amendment made  
23 by paragraph (1) shall take effect on the date that  
24 is 15 days after the date of the enactment of this  
25 Act.

1 (b) REPORT REQUIRED.—Not later than 180 days  
2 after the date of the enactment of this Act, and annually  
3 thereafter, the Commissioner shall submit to the Com-  
4 mittee on Finance of the Senate and the Committee on  
5 Ways and Means of the House of Representatives a report  
6 on compliance with section 307 of the Tariff Act of 1930  
7 (19 U.S.C. 1307) that includes the following:

8 (1) The number of instances in which merchan-  
9 dise was denied entry pursuant to that section dur-  
10 ing the 1-year period preceding the submission of  
11 the report.

12 (2) A description of the merchandise denied  
13 entry pursuant to that section.

14 (3) Such other information as the Commis-  
15 sioner considers appropriate with respect to moni-  
16 toring and enforcing compliance with that section.

17 **SEC. 913. IMPROVED COLLECTION AND USE OF LABOR**  
18 **MARKET INFORMATION.**

19 Section 1137 of the Social Security Act (42 U.S.C.  
20 1320b-7) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (2), by inserting “(in-  
23 cluding the occupational information under sub-  
24 section (g))” after “paragraph (3) of this sub-  
25 section”; and

1 (B) in paragraph (3), by striking “employ-  
2 ers (as defined” and inserting “subject to sub-  
3 section (g), employers (as defined”;

4 (2) by adding at the end the following new sub-  
5 section:

6 “(g)(1) Beginning January 1, 2017, each quarterly  
7 wage report required to be submitted by an employer  
8 under subsection (a)(3) shall include such occupational in-  
9 formation with respect to each employee of the employer  
10 that permits the classification of such employees into occu-  
11 pational categories as found in the Standard Occupational  
12 Classification (SOC) system.

13 “(2) The State agency receiving the occupational in-  
14 formation described in paragraph (1) shall make such in-  
15 formation available to the Secretary of Labor pursuant to  
16 procedures established by the Secretary of Labor.

17 “(3)(A) The Secretary of Labor shall make occupa-  
18 tional information submitted under paragraph (2) avail-  
19 able to other State and Federal agencies, including the  
20 United States Census Bureau, the Bureau of Labor Sta-  
21 tistics, and other State and Federal research agencies.

22 “(B) Disclosure of occupational information under  
23 subparagraph (A) shall be subject to the agency having  
24 safeguards in place that meet the requirements under  
25 paragraph (4).

1       “(4) The Secretary of Labor shall establish and im-  
2 plement safeguards for the dissemination and, subject to  
3 paragraph (5), the use of occupational information re-  
4 ceived under this subsection.

5       “(5) Occupational information received under this  
6 subsection shall only be used to classify employees into  
7 occupational categories as found in the Standard Occupa-  
8 tional Classification (SOC) system and to analyze and  
9 evaluate occupations in order to improve the labor market  
10 for workers and industries.

11       “(6) The Secretary of Labor shall establish proce-  
12 dures to verify the accuracy of information received under  
13 paragraph (2).”.

14 **SEC. 914. STATEMENTS OF POLICY WITH RESPECT TO**  
15 **ISRAEL.**

16 Congress—

17       (1) supports the strengthening of United  
18 States-Israel economic cooperation and recognizes  
19 the tremendous strategic, economic, and techno-  
20 logical value of cooperation with Israel;

21       (2) recognizes the benefit of cooperation with  
22 Israel to United States companies, including by im-  
23 proving United States competitiveness in global mar-  
24 kets;

1           (3) recognizes the importance of trade and com-  
2           mercial relations to the pursuit and sustainability of  
3           peace, and supports efforts to bring together the  
4           United States, Israel, the Palestinian territories, and  
5           others in enhanced commerce;

6           (4) opposes politically motivated actions that  
7           penalize or otherwise limit commercial relations spe-  
8           cifically with Israel such as boycotts, divestment or  
9           sanctions;

10          (5) notes that the boycott, divestment, and  
11          sanctioning of Israel by governments, governmental  
12          bodies, quasi-governmental bodies, international or-  
13          ganizations, and other such entities is contrary to  
14          the General Agreement on Tariffs and Trade  
15          (GATT) principle of nondiscrimination;

16          (6) encourages the inclusion of politically moti-  
17          vated actions that penalize or otherwise limit com-  
18          mercial relations specifically with Israel such as boy-  
19          cotts, divestment from, or sanctions against Israel as  
20          a topic of discussion at the U.S.-Israel Joint Eco-  
21          nomic Development Group (JEDG) and other areas  
22          to support the strengthening of the United States-  
23          Israel commercial relationship and combat any com-  
24          mercial discrimination against Israel;

1 (7) supports efforts to prevent investigations or  
2 prosecutions by governments or international organi-  
3 zations of United States persons on the sole basis of  
4 such persons doing business with Israel, with Israeli  
5 entities, or in territories controlled by Israel; and

6 (8) supports States of the United States exam-  
7 ining a company's promotion or compliance with  
8 unsanctioned boycotts, divestment from, or sanctions  
9 against Israel as part of its consideration in award-  
10 ing grants and contracts and supports the divest-  
11 ment of State assets from companies that support or  
12 promote actions to boycott, divest from, or sanction  
13 Israel.

## 14 **TITLE X—OFFSETS**

### 15 **SEC. 1001. REVOCATION OR DENIAL OF PASSPORT IN CASE** 16 **OF CERTAIN UNPAID TAXES.**

17 (a) IN GENERAL.—Subchapter D of chapter 75 of the  
18 Internal Revenue Code of 1986 is amended by adding at  
19 the end the following new section:

### 20 **“SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE** 21 **OF CERTAIN TAX DELINQUENCIES.**

22 “(a) IN GENERAL.—If the Secretary receives certifi-  
23 cation by the Commissioner of Internal Revenue that any  
24 individual has a seriously delinquent tax debt in an  
25 amount in excess of \$50,000, the Secretary shall transmit

1 such certification to the Secretary of State for action with  
2 respect to denial, revocation, or limitation of a passport  
3 pursuant to section 1001(d) of the Trade Facilitation and  
4 Trade Enforcement Act of 2015.

5 “(b) SERIOUSLY DELINQUENT TAX DEBT.—For pur-  
6 poses of this section, the term ‘seriously delinquent tax  
7 debt’ means an outstanding debt under this title for which  
8 a notice of lien has been filed in public records pursuant  
9 to section 6323 or a notice of levy has been filed pursuant  
10 to section 6331, except that such term does not include—

11 “(1) a debt that is being paid in a timely man-  
12 ner pursuant to an agreement under section 6159 or  
13 7122, and

14 “(2) a debt with respect to which collection is  
15 suspended because a collection due process hearing  
16 under section 6330, or relief under subsection (b),  
17 (c), or (f) of section 6015, is requested or pending.

18 “(c) ADJUSTMENT FOR INFLATION.—In the case of  
19 a calendar year beginning after 2016, the dollar amount  
20 in subsection (a) shall be increased by an amount equal  
21 to—

22 “(1) such dollar amount, multiplied by

23 “(2) the cost-of-living adjustment determined  
24 under section 1(f)(3) for the calendar year, deter-

1       mined by substituting ‘calendar year 2015’ for ‘cal-  
2       endar year 1992’ in subparagraph (B) thereof.

3       If any amount as adjusted under the preceding sentence  
4       is not a multiple of \$1,000, such amount shall be rounded  
5       to the next highest multiple of \$1,000.”.

6       (b) CLERICAL AMENDMENT.—The table of sections  
7       for subchapter D of chapter 75 of the Internal Revenue  
8       Code of 1986 is amended by adding at the end the fol-  
9       lowing new item:

      “Sec. 7345. Revocation or denial of passport in case of certain tax delin-  
          quencies.”.

10      (c) AUTHORITY FOR INFORMATION SHARING.—

11           (1) IN GENERAL.—Subsection (l) of section  
12       6103 of the Internal Revenue Code of 1986 is  
13       amended by adding at the end the following new  
14       paragraph:

15           “(23) DISCLOSURE OF RETURN INFORMATION  
16       TO DEPARTMENT OF STATE FOR PURPOSES OF PASS-  
17       PORT REVOCATION UNDER SECTION 7345.—

18           “(A) IN GENERAL.—The Secretary shall,  
19       upon receiving a certification described in sec-  
20       tion 7345, disclose to the Secretary of State re-  
21       turn information with respect to a taxpayer who  
22       has a seriously delinquent tax debt described in  
23       such section. Such return information shall be  
24       limited to—

1           “(i) the taxpayer identity information  
2           with respect to such taxpayer, and

3           “(ii) the amount of such seriously de-  
4           linquent tax debt.

5           “(B) RESTRICTION ON DISCLOSURE.—Re-  
6           turn information disclosed under subparagraph  
7           (A) may be used by officers and employees of  
8           the Department of State for the purposes of,  
9           and to the extent necessary in, carrying out the  
10          requirements of section 1001(d) of the Trade  
11          Facilitation and Trade Enforcement Act of  
12          2015.”.

13          (2) CONFORMING AMENDMENT.—Paragraph (4)  
14          of section 6103(p) of such Code is amended by strik-  
15          ing “or (22)” each place it appears in subparagraph  
16          (F)(ii) and in the matter preceding subparagraph  
17          (A) and inserting “(22), or (23)”.

18          (d) AUTHORITY TO DENY OR REVOKE PASSPORT.—

19                 (1) DENIAL.—

20                         (A) IN GENERAL.—Except as provided  
21                         under subparagraph (B), upon receiving a cer-  
22                         tification described in section 7345 of the Inter-  
23                         nal Revenue Code of 1986 from the Secretary  
24                         of the Treasury, the Secretary of State shall  
25                         not issue a passport to any individual who has

1 a seriously delinquent tax debt described in  
2 such section.

3 (B) EMERGENCY AND HUMANITARIAN SIT-  
4 UATIONS.—Notwithstanding subparagraph (A),  
5 the Secretary of State may issue a passport, in  
6 emergency circumstances or for humanitarian  
7 reasons, to an individual described in such sub-  
8 paragraph.

9 (2) REVOCATION.—

10 (A) IN GENERAL.—The Secretary of State  
11 may revoke a passport previously issued to any  
12 individual described in paragraph (1)(A).

13 (B) LIMITATION FOR RETURN TO UNITED  
14 STATES.—If the Secretary of State decides to  
15 revoke a passport under subparagraph (A), the  
16 Secretary of State, before revocation, may—

17 (i) limit a previously issued passport  
18 only for return travel to the United States;

19 or

20 (ii) issue a limited passport that only  
21 permits return travel to the United States.

22 (3) HOLD HARMLESS.—The Secretary of the  
23 Treasury and the Secretary of State shall not be lia-  
24 ble to an individual for any action with respect to a  
25 certification by the Commissioner of Internal Rev-

1        enue under section 7345 of the Internal Revenue  
2        Code of 1986.

3        (e) REVOCATION OR DENIAL OF PASSPORT IN CASE  
4 OF INDIVIDUAL WITHOUT SOCIAL SECURITY ACCOUNT  
5 NUMBER.—

6            (1) DENIAL.—

7                    (A) IN GENERAL.—Except as provided  
8                    under subparagraph (B), upon receiving an ap-  
9                    plication for a passport from an individual that  
10                   either—

11                            (i) does not include the social security  
12                            account number issued to that individual,  
13                            or

14                            (ii) includes an incorrect or invalid so-  
15                            cial security number willfully, intentionally,  
16                            negligently, or recklessly provided by such  
17                            individual,

18                    the Secretary of State is authorized to deny  
19                    such application and is authorized to not issue  
20                    a passport to the individual.

21                    (B) EMERGENCY AND HUMANITARIAN SIT-  
22                    UATIONS.—Notwithstanding subparagraph (A),  
23                    the Secretary of State may issue a passport, in  
24                    emergency circumstances or for humanitarian

1 reasons, to an individual described in subpara-  
2 graph (A).

3 (2) REVOCATION.—

4 (A) IN GENERAL.—The Secretary of State  
5 may revoke a passport previously issued to any  
6 individual described in paragraph (1)(A).

7 (B) LIMITATION FOR RETURN TO UNITED  
8 STATES.—If the Secretary of State decides to  
9 revoke a passport under subparagraph (A), the  
10 Secretary of State, before revocation, may—

11 (i) limit a previously issued passport  
12 only for return travel to the United States;

13 or

14 (ii) issue a limited passport that only  
15 permits return travel to the United States.

16 (f) EFFECTIVE DATE.—The provisions of, and  
17 amendments made by, this section shall take effect on  
18 January 1, 2016.

19 **SEC. 1002. CUSTOMS USER FEES.**

20 (a) IN GENERAL.—Section 13031(j)(3) of the Con-  
21 solidated Omnibus Budget Reconciliation Act of 1985 (19  
22 U.S.C. 58c(j)(3)) is amended by adding at the end the  
23 following:

1 “(C) Fees may be charged under paragraphs (9) and  
2 (10) of subsection (a) during the period beginning on July  
3 8, 2025, and ending on July 28, 2025.”.

4 (b) RATE FOR MERCHANDISE PROCESSING FEES.—  
5 Section 503 of the United States–Korea Free Trade  
6 Agreement Implementation Act (Public Law 112–41; 125  
7 Stat. 460) is amended—

8 (1) by striking “For the period” and inserting  
9 “(a) IN GENERAL.—For the period”; and

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

11 “(b) ADDITIONAL PERIOD.—For the period begin-  
12 ning on July 1, 2025, and ending on July 14, 2025, sec-  
13 tion 13031(a)(9) of the Consolidated Omnibus Budget  
14 Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be  
15 applied and administered—

16 “(1) in subparagraph (A), by substituting  
17 ‘0.3464’ for ‘0.21’; and

18 “(2) in subparagraph (B)(i), by substituting  
19 ‘0.3464’ for ‘0.21’.”.

Calendar No. 76

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1269**

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**A BILL**

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

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MAY 11, 2015

Read twice and placed on the calendar