

114TH CONGRESS  
1ST SESSION

# H. R. 1916

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2015

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

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## A BILL

To reauthorize trade enforcement and trade facilitation 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 Enforcement and Trade Facilitation 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. Customs broker identification of importers.
- Sec. 116. Establishment of new importer program.
- Sec. 117. Requirements applicable to non-resident importers.
- Sec. 118. Single entry bond for suspected evasion.

#### 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—MISCELLANEOUS PROVISIONS

- Sec. 401. De minimis value.
- Sec. 402. Consultation on trade and customs revenue functions.
- Sec. 403. Penalties for customs brokers.

- Sec. 404. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 405. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.
- Sec. 406. Drawback and refunds.
- Sec. 407. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.

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

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

- Sec. 501. Prevention and investigation of evasion.
- Sec. 502. Application to Canada and Mexico.

Subtitle B—Other Matters

- Sec. 511. Definitions.
- Sec. 512. Allocation and training of personnel.
- Sec. 513. Regulations.
- Sec. 514. Annual report on prevention of evasion of antidumping and countervailing duty orders.
- Sec. 515. Government Accountability Office report on reliquidation authority.
- Sec. 516. Addressing circumvention by new shippers.

**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**  
**7 13031(f)(4) of the Consolidated Omnibus Budget**  
**8 Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)).**

**9 (2) COMMISSIONER.**—The term “Commis-  
**10 sioner”** means the Commissioner responsible for  
**11 U.S. Customs and Border Protection.**

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

4           (A) The Tariff Act of 1930 (19 U.S.C.  
5 1202 et seq.).

6           (B) Section 249 of the Revised Statutes  
7 (19 U.S.C. 3).

8           (C) Section 2 of the Act of March 4, 1923  
9 (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

10          (D) The Act of March 3, 1927 (44 Stat.  
11 1381, chapter 348; 19 U.S.C. 2071 et seq.).

12          (E) Section 13031 of the Consolidated  
13 Omnibus Budget Reconciliation Act of 1985  
14 (19 U.S.C. 58c).

15          (F) Section 251 of the Revised Statutes  
16 (19 U.S.C. 66).

17          (G) Section 1 of the Act of June 26, 1930  
18 (46 Stat. 817, chapter 617; 19 U.S.C. 68).

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

21          (I) Section 1 of the Act of March 2, 1911  
22 (36 Stat. 965, chapter 191; 19 U.S.C. 198).

23          (J) The Trade Act of 1974 (19 U.S.C.  
24 2102 et seq.).

1           (K) The Trade Agreements Act of 1979  
2           (19 U.S.C. 2501 et seq.).

3           (L) The North American Free Trade  
4           Agreement Implementation Act (19 U.S.C.  
5           3301 et seq.).

6           (M) The Uruguay Round Agreements Act  
7           (19 U.S.C. 3501 et seq.).

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

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

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

14          (Q) The Customs Enforcement Act of  
15          1986 (Public Law 99–570; 100 Stat. 3207–79).

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

18          (S) The Customs Procedural Reform and  
19          Simplification Act of 1978 (Public Law 95–  
20          410; 92 Stat. 888).

21          (T) The Trade Act of 2002 (Public Law  
22          107–210; 116 Stat. 933).

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

1 (V) The Act of March 28, 1928 (45 Stat.  
2 374, chapter 266; 19 U.S.C. 2077 et seq.)

3 (W) The Act of August 7, 1939 (53 Stat.  
4 1263, chapter 566).

5 (X) Any other provision of law imple-  
6 menting a trade agreement.

7 (Y) Any other provision of law vesting cus-  
8 toms revenue functions in the Secretary of the  
9 Treasury.

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

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

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

22 (A) an importer;

23 (B) an exporter;

24 (C) a forwarder;

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

1 (E) a contract logistics provider;

2 (F) a customs broker; or

3 (G) any other person (other than an em-  
4 ployee of a government) affected by the imple-  
5 mentation of the customs and trade laws of the  
6 United States, including a domestic producer.

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

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

## 16 **TITLE I—TRADE FACILITATION** 17 **AND TRADE ENFORCEMENT**

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

19 (a) IN GENERAL.—In order to advance the security,  
20 trade enforcement, and trade facilitation missions of U.S.  
21 Customs and Border Protection, the Commissioner shall  
22 ensure that partnership programs of U.S. Customs and  
23 Border Protection established before the date of the enact-  
24 ment of this Act, such as the Customs–Trade Partnership  
25 Against Terrorism established under subtitle B of title II

1 of the Security and Accountability for Every Port Act of  
2 2006 (6 U.S.C. 961 et seq.), and partnership programs  
3 of U.S. Customs and Border Protection established after  
4 such date of enactment, provide trade benefits to private  
5 sector entities that meet the requirements for participation  
6 in those programs established by the Commissioner under  
7 this section.

8 (b) ELEMENTS.—In developing and operating part-  
9 nership programs under subsection (a), the Commissioner  
10 shall—

11 (1) consult with private sector entities, the pub-  
12 lic, and other Federal agencies when appropriate, to  
13 ensure that participants in those programs receive  
14 commercially significant and measurable trade bene-  
15 fits, including providing pre-clearance of merchan-  
16 dise for qualified persons that demonstrate the high-  
17 est levels of compliance with the customs and trade  
18 laws of the United States, regulations of U.S. Cus-  
19 toms and Border Protection, and other requirements  
20 the Commissioner determines to be necessary;

21 (2) ensure an integrated and transparent sys-  
22 tem of trade benefits and compliance requirements  
23 for all partnership programs of U.S. Customs and  
24 Border Protection;



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

8           (4) coordinate with the Director of U.S. Immi-  
9           gration and Customs Enforcement, and other Fed-  
10          eral agencies with authority to detain and release  
11          merchandise entering the United States—

12                 (A) to ensure coordination in the release of  
13                 such merchandise through the Automated Com-  
14                 mercial Environment, or its predecessor, and  
15                 the International Trade Data System;

16                 (B) to ensure that the partnership pro-  
17                 grams of those agencies are compatible with the  
18                 partnership programs of U.S. Customs and  
19                 Border Protection;

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

25                 and

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

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

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

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

17 (2) for each such program, identifies—

18 (A) the requirements for participants in  
19 the program;

20 (B) the commercially significant and meas-  
21 urable trade benefits provided to participants in  
22 the program;

23 (C) the number of participants in the pro-  
24 gram; and

1 (D) in the case of a program that provides  
2 for participation at multiple tiers, the number  
3 of participants at each such tier;

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

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

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

20 (6) summarizes criteria developed with those  
21 agencies for authorizing the release, on an expedited  
22 basis, of merchandise for which documentation is re-  
23 quired from one or more of those agencies to clear  
24 or license the merchandise for entry into the United  
25 States;

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

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

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

13 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE EN-**  
14 **FORCEMENT ACTIVITIES.**

15          (a) IN GENERAL.—Not later than one year after the  
16          date of the enactment of this Act, the Comptroller General  
17          of the United States shall submit to the Committee on  
18          Finance of the Senate and the Committee on Ways and  
19          Means of the House of Representatives a report on the  
20          effectiveness of trade enforcement activities of U.S. Cus-  
21          toms and Border Protection.

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

24                  (1) a description of the use of resources, results  
25                  of audits and verifications, targeting, organization,

1 and training of personnel of U.S. Customs and Bor-  
2 der Protection; and

3 (2) a description of trade enforcement activities  
4 to address undervaluation, transshipment, legitimacy  
5 of entities making entry, protection of revenues,  
6 fraud prevention and detection, and penalties, in-  
7 cluding intentional misclassification, inadequate  
8 bonding, and other misrepresentations.

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

13 (a) PRIORITIES AND PERFORMANCE STANDARDS.—

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

22 (2) MINIMUM PRIORITIES AND STANDARDS.—  
23 Such priorities and performance standards shall, at  
24 a minimum, include priorities and standards relating

1 to efficiency, outcome, output, and other types of ap-  
2 plicable measures.

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

6 (1) The Automated Commercial Environment.

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

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

14 (4) Drawback for exported merchandise under  
15 section 313 of the Tariff Act of 1930 (19 U.S.C.  
16 1313), as amended by section 406 of this Act.

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

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

24 (7) The expedited clearance of cargo.

25 (8) The issuance of regulations and rulings.

1 (9) The issuance of Regulatory Audit Reports.

2 (c) CONSULTATIONS AND NOTIFICATION.—

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

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

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

17 (a) IN GENERAL.—

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

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

1 (B) improve the trade enforcement efforts  
2 of U.S. Customs and Border Protection per-  
3 sonnel and U.S. Immigration and Customs En-  
4 forcement personnel; and

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

10 (b) CONTENT.—

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

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



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

7 (C) Customs valuation.

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

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

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

1 title VII of the Tariff Act of 1930 (19 U.S.C.  
2 1673 et seq.).

3 (B) Addressing evasion of duties on im-  
4 ports of textiles.

5 (C) Protection of intellectual property  
6 rights.

7 (D) Enforcement of child labor laws.

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

13 (c) SELECTION PROCESS.—

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

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

24 (A) availability and usefulness;

1 (B) the volume, value, and incidence of  
2 mislabeling or misidentification of origin of im-  
3 ported articles; and

4 (C) other appropriate criteria established  
5 by the Commissioner.

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

11 (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-  
12 TERVERAILING DUTY ORDERS.—

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

23 (2) INTERESTED PARTY.—A petitioner de-  
24 scribed in paragraph (1) shall be treated as an inter-

1       ested party in the private sector for purposes of the  
2       requirements of this section.

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

7       (f) REPORTING.—Beginning September 30, 2016, the  
8       Commissioner and the Director shall submit to the Com-  
9       mittee of Finance of the Senate and the Committee of  
10      Ways and Means of the House of Representatives an an-  
11      nual report on the effectiveness of educational seminars  
12      under this section.

13      (g) DEFINITIONS.—In this section:

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

17           (2) UNITED STATES.—The term “United  
18      States” means the customs territory of the United  
19      States, as defined in General Note 2 to the Har-  
20      monized Tariff Schedule of the United States.

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

1           (4) U.S. IMMIGRATION AND CUSTOMS ENFORCE-  
2           MENT PERSONNEL.—The term “U.S. Immigrations  
3           and Customs Enforcement personnel” means Home-  
4           land Security Investigations Directorate personnel  
5           and other appropriate employees of U.S. Immigra-  
6           tions and Customs Enforcement.

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

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

15          (b) CONTENTS.—The joint strategic plan required  
16          under this section shall be comprised of a comprehensive  
17          multi-year plan for trade enforcement and trade facilita-  
18          tion, and shall include—

19                (1) a summary of actions taken during the 2-  
20                year period preceding the submission of the plan to  
21                improve trade enforcement and trade facilitation, in-  
22                cluding a description and analysis of specific per-  
23                formance measures to evaluate the progress of U.S.  
24                Customs and Border Protection and U.S. Immigra-

1       tion and Customs Enforcement in meeting each such  
2       responsibility;

3           (2) a statement of objectives and plans for fur-  
4       ther improving trade enforcement and trade facilita-  
5       tion;

6           (3) a specific identification of the priority trade  
7       issues described in paragraph (3)(B)(ii) of section  
8       2(d) of the Act of March 3, 1927 (44 Stat. 1381,  
9       chapter 348; 19 U.S.C. 2072(d)), as added by sec-  
10      tion 111(a) of this Act, that can be addressed in  
11      order to enhance trade enforcement and trade facili-  
12      tation, and a description of strategies and plans for  
13      addressing each such issue;

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

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

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

7 (2) by striking “such amounts as are available  
8 in that Account” and inserting “not less than  
9 \$153,736,000”; and

10 (3) by striking “for the development” and in-  
11 serting “to complete the development and implemen-  
12 tation”.

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

16 “(3) REPORT.—

17 “(A) IN GENERAL.—Not later than De-  
18 cember 31, 2016, the Commissioner responsible  
19 for U.S. Customs and Border Protection shall  
20 submit to the Committee on Appropriations and  
21 the Committee on Finance of the Senate and  
22 the Committee on Appropriations and the Com-  
23 mittee on Ways and Means of the House of  
24 Representatives a report detailing—

25 “(i) U.S. Customs and Border Protec-  
26 tion’s incorporation of all core trade proc-

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

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

22                 “(iii) the components of the National  
23          Customs Automation Program specified in  
24          subsection (a)(2) of section 411 of the

1 Tariff Act of 1930 that have not been im-  
2 plemented; and

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

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

18 “(i) evaluating the effectiveness of the  
19 implementation of the Automated Commer-  
20 cial Environment computer system; and

21 “(ii) detailing the percentage of trade  
22 processed in the Automated Commercial  
23 Environment every month since September  
24 30, 2016.”.

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

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

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

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

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

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

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

3           “(4) INFORMATION TECHNOLOGY INFRASTRUC-  
4           TURE.—

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

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

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

21                   “(iii) not later than June 30, 2016,  
22                   identifies and transmits to the Commis-  
23                   sioner responsible for U.S. Customs and  
24                   Border Protection the admissibility criteria  
25                   and data elements required by the agency

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

9 “(iv) not later than December 31,  
10 2016, utilizes the ITDS as the primary  
11 means of receiving from users the standard  
12 set of data and other relevant documenta-  
13 tion, exclusive of applications for permits,  
14 licenses, or certifications required for the  
15 release of imported cargo and clearance of  
16 cargo for export.

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

22 (3) in paragraph (8), as redesignated, by strik-  
23 ing “section 9503(c) of the Omnibus Budget Rec-  
24 onciliation Act of 1987 (19 U.S.C. 2071 note)” and

1 inserting “section 109 of the Trade Facilitation and  
2 Trade Enforcement Act of 2015”.

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

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

11 (1) not later than 30 days before initiating ne-  
12 gotiations to enter into any such arrangement or  
13 similar agreement, with the Committee on Finance  
14 of the Senate and the Committee on Ways and  
15 Means of the House of Representatives; and

16 (2) not later than 30 days before entering into  
17 any such arrangement or similar agreement, with  
18 the Committee on Finance of the Senate and the  
19 Committee on Ways and Means of the House of  
20 Representatives.

21 (b) NEGOTIATING OBJECTIVE.—It shall be a negoti-  
22 ating objective of the United States in any negotiation for  
23 a mutual recognition arrangement with a foreign country  
24 on partnership programs, such as the Customs–Trade  
25 Partnership Against Terrorism established under subtitle

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

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

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

15 (b) MEMBERSHIP.—

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

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

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

24 (C) the Assistant Secretary for Policy and  
25 the Director of U.S. Immigration and Customs



1 Enforcement of the Department of Homeland  
2 Security, who shall serve as deputy co-chairs of  
3 meetings of the Advisory Committee.

4 (2) APPOINTMENT.—

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

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

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

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

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

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

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

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

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

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

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

6           (d) MEETINGS.—

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

13           (2) OPEN MEETINGS.—Notwithstanding section  
14 10(a) of the Federal Advisory Committee Act (5  
15 U.S.C. App.), the Advisory Committee meetings  
16 shall be open to the public unless the Secretary of  
17 the Treasury or the Secretary of Homeland Security  
18 determines that the meeting will include matters the  
19 disclosure of which would compromise investigations  
20 of U.S. Immigration and Customs Enforcement.

21           (e) ANNUAL REPORT.—Not later than December 31,  
22 2016, and annually thereafter, the Advisory Committee  
23 shall submit to the Committee on Finance of the Senate  
24 and the Committee on Ways and Means of the House of  
25 Representatives a report that—

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

3           (2) sets forth any recommendations of the Advi-  
4           sory Committee regarding the commercial operations  
5           of U.S. Customs and Border Protection.

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

10          (g) CONFORMING AMENDMENT.—

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

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

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

2 (a) IN GENERAL.—The Commissioner shall, in con-  
3 sultation with the Committee on Finance of the Senate,  
4 the Committee on Ways and Means of the House of Rep-  
5 resentatives, and the Commercial Customs Operations Ad-  
6 visory Committee established by section 109 of this Act,  
7 develop and implement Centers of Excellence and Exper-  
8 tise throughout U.S. Customs and Border Protection  
9 that—

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

16 (2) improve enforcement efforts, including en-  
17 forcement of priority trade issues described in sub-  
18 paragraph (B)(ii) of section 2(d)(3) of the Act of  
19 March 3, 1927 (44 Stat. 1381, chapter 348; 19  
20 U.S.C. 2072(d)), as added by section 111(a) of this  
21 Act, in specific industry sectors through the applica-  
22 tion of targeting information from the Commercial  
23 Targeting Division established under subparagraph  
24 (A) of such section 2(d)(3) and from other means of  
25 verification;

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

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

7           (5) centralize the trade enforcement and trade  
8 facilitation efforts of U.S. Customs and Border Pro-  
9 tection;

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

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

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

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

21       (b) REPORT.—Not later than December 31, 2016,  
22 the Commissioner shall submit to the Committee on Fi-  
23 nance of the Senate and the Committee on Ways and  
24 Means of the House of Representatives a report describ-  
25 ing—

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

4           (2) the effectiveness of each such Center of Ex-  
5 cellence and Expertise in improving enforcement ef-  
6 forts, including enforcement of priority trade issues,  
7 and facilitating legitimate trade;

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

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

19           (5) the performance of each such Center of Ex-  
20 cellence and Expertise in increasing the accuracy  
21 and completeness of data with respect to inter-  
22 national trade and facilitating a more efficient flow  
23 of information between Federal agencies; and

24           (6) any planned changes in the number, scope,  
25 functions or any other aspect of the Centers of Ex-

1       cellence and Expertise developed and implemented  
2       under subsection (a).

3 **SEC. 111. COMMERCIAL TARGETING DIVISION AND NA-**  
4 **TIONAL TARGETING AND ANALYSIS GROUPS.**

5       (a) IN GENERAL.—Section 2(d) of the Act of March  
6 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d))  
7 is amended by adding at the end the following:

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

10               “(A) ESTABLISHMENT OF COMMERCIAL  
11 TARGETING DIVISION.—

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

16               “(ii) COMPOSITION.—The Commercial  
17 Targeting Division shall be composed of—

18               “(I) headquarters personnel led  
19 by an Executive Director, who shall  
20 report to the Assistant Commissioner  
21 for Trade; and

22               “(II) individual National Tar-  
23 geting and Analysis Groups, each led  
24 by a Director who shall report to the



1 Executive Director of the Commercial  
2 Targeting Division.

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

5 “(I) to the development and con-  
6 duct of commercial risk assessment  
7 targeting with respect to cargo des-  
8 tined for the United States in accord-  
9 ance with subparagraph (C); and

10 “(II) to issuing Trade Alerts de-  
11 scribed in subparagraph (D).

12 “(B) NATIONAL TARGETING AND ANALYSIS  
13 GROUPS.—

14 “(i) IN GENERAL.—A National Tar-  
15 geting and Analysis Group referred to in  
16 subparagraph (A)(ii)(II) shall, at a min-  
17 imum, be established for each priority  
18 trade issue described in clause (ii).

19 “(ii) PRIORITY TRADE ISSUES.—

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

23 “(aa) Agriculture programs.

24 “(bb) Antidumping and  
25 countervailing duties.

1 “(cc) Import safety.

2 “(dd) Intellectual property  
3 rights.

4 “(ee) Revenue.

5 “(ff) Textiles and wearing  
6 apparel.

7 “(gg) Trade agreements and  
8 preference programs.

9 “(II) MODIFICATION.—The Com-  
10 missioner is authorized to establish  
11 new priority trade issues and elimi-  
12 nate, consolidate, or otherwise modify  
13 the priority trade issues described in  
14 this paragraph if the Commissioner—

15 “(aa) determines it nec-  
16 essary and appropriate to do so;

17 “(bb) submits to the Com-  
18 mittee on Finance of the Senate  
19 and the Committee on Ways and  
20 Means of the House of Rep-  
21 resentatives a summary of pro-  
22 posals to consolidate, eliminate,  
23 or otherwise modify existing pri-  
24 ority trade issues not later than

1 60 days before such changes are  
2 to take effect; and

3 “(cc) submits to the Com-  
4 mittee on Finance of the Senate  
5 and the Committee on Ways and  
6 Means of the House of Rep-  
7 resentatives a summary of pro-  
8 posals to establish new priority  
9 trade issues not later than 30  
10 days after such changes are to  
11 take effect.

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

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

20 “(II) facilitating, promoting, and  
21 coordinating cooperation and the ex-  
22 change of information between U.S.  
23 Customs and Border Protection, U.S.  
24 Immigration and Customs Enforce-  
25 ment, and other relevant Federal de-

1                   partments and agencies regarding the  
2                   Group’s priority trade issue; and

3                   “(III) serving as the primary liai-  
4                   son between U.S. Customs and Bor-  
5                   der Protection and the public regard-  
6                   ing United States Government activi-  
7                   ties regarding the Group’s priority  
8                   trade issue, including—

9                   “(aa) providing for receipt  
10                  and transmission to the appro-  
11                  priate U.S. Customs and Border  
12                  Protection office of allegations  
13                  from interested parties in the pri-  
14                  vate sector of violations of cus-  
15                  toms and trade laws of the  
16                  United States of merchandise re-  
17                  lating to the priority trade issue;

18                  “(bb) obtaining information  
19                  from the appropriate U.S. Cus-  
20                  toms and Border Protection of-  
21                  fice on the status of any activi-  
22                  ties resulting from the submis-  
23                  sion of any such allegation, in-  
24                  cluding any decision not to pur-  
25                  sue the allegation, and providing

1 any such information to each in-  
2 terested party in the private sec-  
3 tor that submitted the allegation  
4 every 90 days after the allegation  
5 was received by U.S. Customs  
6 and Border Protection unless  
7 providing such information would  
8 compromise an ongoing law en-  
9 forcement investigation; and

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

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

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

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

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

11           “(ii) to the extent practicable and oth-  
12 erwise authorized by law, use, to admin-  
13 ister the methodologies and standards es-  
14 tablished under clause (i) —

15           “(I) publicly available informa-  
16 tion;

17           “(II) information available from  
18 the Automated Commercial System,  
19 the Automated Commercial Environ-  
20 ment computer system, the Auto-  
21 mated Targeting System, the Auto-  
22 mated Export System, the Inter-  
23 national Trade Data System, the  
24 TECS (formerly known as the ‘Treas-  
25 ury Enforcement Communications

1 System'), the case management sys-  
2 tem of U.S. Immigration and Customs  
3 Enforcement, and any successor sys-  
4 tems; and

5 “(III) information made available  
6 to the Commercial Targeting Division,  
7 including information provided by pri-  
8 vate sector entities.

9 “(D) TRADE ALERTS.—

10 “(i) ISSUANCE.—Based upon the ap-  
11 plication of the targeted risk assessment  
12 methodologies and standards established  
13 under subparagraph (C), the Executive Di-  
14 rector of the Commercial Targeting Divi-  
15 sion and the Directors of the National  
16 Targeting and Analysis Groups may issue  
17 Trade Alerts to directors of United States  
18 ports of entry directing further inspection,  
19 or physical examination or testing, of spe-  
20 cific merchandise to ensure compliance  
21 with all applicable customs and trade laws  
22 and regulations administered by U.S. Cus-  
23 toms and Border Protection.

24 “(ii) DETERMINATIONS NOT TO IM-  
25 PLEMENT TRADE ALERTS.—The director

1 of a United States port of entry may deter-  
2 mine not to conduct further inspections, or  
3 physical examination or testing, pursuant  
4 to a Trade Alert issued under clause (i)  
5 if—

6 “(I) the director finds that such  
7 a determination is justified by security  
8 interests; and

9 “(II) notifies the Assistant Com-  
10 missioner of the Office of Field Oper-  
11 ations and the Assistant Commis-  
12 sioner of International Trade of U.S.  
13 Customs and Border Protection of the  
14 determination and the reasons for the  
15 determination not later than 48 hours  
16 after making the determination.

17 “(iii) SUMMARY OF DETERMINATIONS  
18 NOT TO IMPLEMENT.—The Assistant Com-  
19 missioner of the Office of Field Operations  
20 of U.S. Customs and Border Protection  
21 shall—

22 “(I) compile an annual public  
23 summary of all determinations by di-  
24 rectors of United States ports of entry



1 under clause (ii) and the reasons for  
2 those determinations;

3 “(II) conduct an evaluation of  
4 the utilization of Trade Alerts issued  
5 under clause (i); and

6 “(III) submit the summary to the  
7 Committee on Finance of the Senate  
8 and the Committee on Ways and  
9 Means of the House of Representa-  
10 tives not later than December 31 of  
11 each year.

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

22 “(I) assessing duties;

23 “(II) identifying restricted or  
24 prohibited items; and

1                   “(III) ensuring compliance with  
2                   all applicable customs and trade laws  
3                   and regulations administered by U.S.  
4                   Customs and Border Protection.”.

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

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

20   **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**  
21                   **TION AND ENFORCEMENT MEASURES.**

22           (a) IN GENERAL.—Not later the March 31, 2016,  
23   and not later than March 31 of each second year there-  
24   after, the Inspector General of the Department of the  
25   Treasury shall submit to the Committee on Finance of the

1 Senate and the Committee on Ways and Means of the  
2 House of Representatives a report assessing, with respect  
3 to the period covered by the report, as specified in sub-  
4 section (b), the following:

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

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

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

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

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

24 (2) The effectiveness of actions taken by U.S.  
25 Customs and Border Protection to measure account-

1 ability and performance with respect to protection of  
2 revenue.

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

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

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

13 **SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES**  
14 **WITH RESPECT TO MERCHANDISE TRANS-**  
15 **PORTED IN BOND.**

16 (a) IN GENERAL.—Not later than December 31 of  
17 2016, 2017, and 2018, the Secretary of Homeland Secu-  
18 rity and the Secretary of the Treasury shall jointly submit  
19 to the Committee on Finance of the Senate and the Com-  
20 mittee on Ways and Means of the House of Representa-  
21 tives a report on efforts undertaken by U.S. Customs and  
22 Border Protection to ensure the secure transportation of  
23 merchandise in bond through the United States and the  
24 collection of revenue owed upon the entry of such mer-  
25 chandise into the United States for consumption.

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

4 (1) the overall number of entries of merchan-  
5 dise for transportation in bond through the United  
6 States;

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

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

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

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

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

4           (7) the number of entries that remain  
5 unreconciled.

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

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

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

15               (1) develops criteria that importers must meet  
16 in order to obtain an importer of record number, in-  
17 cluding—

18                       (A) criteria to ensure sufficient informa-  
19 tion is collected to allow U.S. Customs and Bor-  
20 der Protection to verify the existence of the im-  
21 porter requesting the importer of record num-  
22 ber;

23                       (B) criteria to ensure sufficient informa-  
24 tion is collected to allow U.S. Customs and Bor-  
25 der Protection to identify linkages or other af-

1           filiations between importers that are requesting  
2           or have been assigned importer of record num-  
3           bers; and

4           (C) criteria to ensure sufficient informa-  
5           tion is collected to allow U.S. Customs and Bor-  
6           der Protection to identify changes in address  
7           and corporate structure of importers;

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

10          (3) maintains a centralized database of im-  
11          porter of record numbers, including a history of im-  
12          porter of record numbers associated with each im-  
13          porter, and the information described in subpara-  
14          graphs (A), (B), and (C) of paragraph (1);

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

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

19          (c) REPORT.—Not later than one year after the date  
20          of the enactment of this Act, the Secretary shall submit  
21          to the Committee on Finance of the Senate and the Com-  
22          mittee on Ways and Means of the House of Representa-  
23          tives a report on the importer of record program estab-  
24          lished under subsection (a).

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

8 **SEC. 115. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**  
9 **ERS.**

10 (a) IN GENERAL.—Section 641 of the Tariff Act of  
11 1930 (19 U.S.C. 1641) is amended by adding at the end  
12 the following:

13 “(i) IDENTIFICATION OF IMPORTERS.—

14 “(1) IN GENERAL.—The Secretary shall pre-  
15 scribe regulations setting forth the minimum stand-  
16 ards for customs brokers and importers, including  
17 nonresident importers, regarding the identity of the  
18 importer that shall apply in connection with the im-  
19 portation of merchandise into the United States.

20 “(2) MINIMUM REQUIREMENTS.—The regula-  
21 tions shall, at a minimum, require customs brokers  
22 to implement, and importers (after being given ade-  
23 quate notice) to comply with, reasonable procedures  
24 for—



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

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

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

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

23          (b) STUDY AND REPORT REQUIRED.—Not later than  
24          180 days after the date of enactment of this Act, the Com-  
25          missioner of U.S. Customs and Border Protection shall

1 submit to Congress a report containing recommendations  
2 for—

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

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

18 **SEC. 116. ESTABLISHMENT OF NEW IMPORTER PROGRAM.**

19           (a) IN GENERAL.—Not later than the date that is  
20 180 days after the date of the enactment of this Act, the  
21 Commissioner shall establish a new importer program that  
22 directs U.S. Customs and Border Protection to adjust  
23 bond amounts for new importers based on the level of risk  
24 assessed by U.S. Customs and Border Protection for pro-  
25 tection of revenue of the Federal Government.

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

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

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

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

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

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

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

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

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

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

10 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**  
11 **DENT IMPORTERS.**

12           “(a) IN GENERAL.—Except as provided in subsection  
13 (c), if an importer of record under section 484 of this Act  
14 is not a resident of the United States, the Commissioner  
15 responsible for U.S. Customs and Border Protection shall  
16 require the non-resident importer to designate a resident  
17 agent in the United States subject to the requirements de-  
18 scribed in subsection (b).

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

21           “(1) The resident agent shall be authorized to  
22 accept service of process against the non-resident  
23 importer in connection with the importation of mer-  
24 chandise.

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

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

16          “(4) The Commissioner responsible for U.S.  
17          Customs and Border Protection shall require the  
18          non-resident importer to establish a power of attor-  
19          ney with the resident agent in connection with the  
20          importation of merchandise.

21          “(c) NON-APPLICABILITY.—The requirements of this  
22          section shall not apply with respect to a non-resident im-  
23          porter who is a validated Tier 2 or Tier 3 participant in  
24          the Customs–Trade Partnership Against Terrorism pro-

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

3 “(d) PENALTIES.—

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

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

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

19 “(4) DEFINITION.—In this subsection, the term  
20 ‘customs and trade laws of the United States’ has  
21 the meaning given such term in section 2 of the  
22 Trade Enforcement and Trade Facilitation Act of  
23 2015.”.

24 (b) EFFECTIVE DATE.—Section 484c of the Tariff  
25 Act of 1930, as added by subsection (a), takes effect on

1 the date of the enactment of this Act and applies with  
2 respect to the importation, on or after the date that is  
3 180 days after such date of enactment, of merchandise  
4 of an importer of record under section 484 of the Tariff  
5 Act of 1930 who is not a resident of the United States.

6 **SEC. 118. SINGLE ENTRY BOND FOR SUSPECTED EVASION.**

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

10 **“SEC. 516B. SINGLE ENTRY BOND FOR SUSPECTED EVA-**  
11 **SION.**

12 “(a) DEFINITIONS.—In this section:

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

17 “(2) EVADE; EVASION.—The terms ‘evade’ and  
18 ‘evasion’ refer to entering covered merchandise into  
19 the customs territory of the United States by means  
20 of any document or electronically transmitted data  
21 or information, written or oral statement, or act that  
22 is material and false, or any omission that is mate-  
23 rial, and that results in any cash deposit or other se-  
24 curity or any amount of applicable antidumping or

1       countervailing duties being reduced or not being ap-  
2       plied with respect to the merchandise.

3               “(3) SECRETARY.—The term ‘Secretary’ means  
4       the Secretary of the Treasury.

5               “(b) SINGLE ENTRY BOND.—The Secretary shall re-  
6       quire a single entry bond, in addition to any continuous  
7       bond, in any case in which the Secretary has a reasonable  
8       belief, based on evidence, that merchandise—

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

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

13       The bond shall be set at an amount the Secretary deter-  
14       mines sufficient to protect revenue and to ensure compli-  
15       ance with the law, regulations, and instructions that the  
16       Secretary is authorized to enforce.”.

17              (b) TECHNICAL AMENDMENT.—Section 514(b) of the  
18       Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by  
19       striking “section 303” and all that follows through “which  
20       are reviewable” and inserting “title VII that are review-  
21       able”.



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

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

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

20 “(1) shall provide to the person information  
21 that appears on the merchandise and its packaging  
22 and labels, including unredacted images of the mer-  
23 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 **SEC. 303. SEIZURE OF CIRCUMVENTION DEVICES.**

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

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

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

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

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

1 (b) NOTIFICATION OF PERSONS INJURED.—

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

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

20 (3) REGULATIONS.—Not later than one year  
21 after the date of the enactment of this Act, the Sec-  
22 retary of the Treasury shall prescribe regulations es-  
23 tablishing procedures that implement this sub-  
24 section.

1 **SEC. 304. ENFORCEMENT BY U.S. CUSTOMS AND BORDER**  
2 **PROTECTION OF WORKS FOR WHICH COPY-**  
3 **RIGHT REGISTRATION IS PENDING.**

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

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

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

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

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

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

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

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

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

13 (B) to develop metrics to assess whether  
14 the training improved enforcement of intellec-  
15 tual property rights;

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

20 (4) support the international interdiction of  
21 merchandise destined for the United States that in-  
22 fringes intellectual property rights;

23 (5) collect and integrate information regarding  
24 infringement of intellectual property rights from do-

1       mestic and international law enforcement agencies  
2       and other non-Federal sources;

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

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

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

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

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

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

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

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

14 (d) PRIVATE SECTOR OUTREACH.—

15 (1) IN GENERAL.—The Assistant Director of  
16 the National Intellectual Property Rights Coordina-  
17 tion Center shall work with U.S. Customs and Bor-  
18 der Protection and other Federal agencies to con-  
19 duct outreach to private sector entities in order to  
20 determine trends in and methods of infringing intel-  
21 lectual property rights.

22 (2) INFORMATION SHARING.—The Assistant Di-  
23 rector shall share information and best practices  
24 with respect to the enforcement of intellectual prop-  
25 erty rights with private sector entities, as appro-



1       appropriate, in order to coordinate public and private sec-  
2       tor efforts to combat the infringement of intellectual  
3       property rights.

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

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

9               (1) a description of the efforts of the Depart-  
10       ment of Homeland Security to enforce intellectual  
11       property rights;

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

18              (3) a recommendation for the optimal allocation  
19       of personnel, resources, and technology to ensure  
20       that U.S. Customs and Border Protection and U.S.  
21       Immigration and Customs Enforcement are ade-  
22       quately enforcing intellectual property rights.

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

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

12 (b) STAFFING OF NATIONAL INTELLECTUAL PROP-  
13 erty Rights Coordination Center.—The Commis-  
14 sioner shall—

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

20 (2) ensure that sufficient personnel are as-  
21 signed to United States ports of entry to carry out  
22 the directives of the Center.

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

25 (a) TRAINING.—The Commissioner shall ensure that  
26 officers of U.S. Customs and Border Protection are

1 trained to effectively detect and identify merchandise des-  
2 tined for the United States that infringes intellectual  
3 property rights, including through the use of technologies  
4 identified under subsection (c).

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

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

14 (1) technologies with the cost-effective capa-  
15 bility to detect and identify merchandise at United  
16 States ports of entry that infringes intellectual prop-  
17 erty rights; and

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

21 (d) DONATIONS OF TECHNOLOGY.—Not later than  
22 the date that is 180 days after the date of the enactment  
23 of this Act, the Commissioner shall prescribe regulations  
24 to enable U.S. Customs and Border Protection to receive  
25 donations of hardware, software, equipment, and similar

1 technologies, and to accept training and other support  
2 services, from private sector entities, for the purpose of  
3 enforcing intellectual property rights.

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

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

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

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

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

24 Not later than June 30, 2016, and annually there-  
25 after, the Commissioner and the Director of U.S. Immi-

1 gration and Customs Enforcement shall jointly submit to  
2 the Committee on Finance of the Senate and the Com-  
3 mittee on Ways and Means of the House of Representa-  
4 tives a report that contains the following:

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

7 (A) The number of referrals from U.S.  
8 Customs and Border Protection to U.S. Immig-  
9 ration and Customs Enforcement relating to  
10 infringement of intellectual property rights dur-  
11 ing the preceding year.

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

18 (C) The number of such investigations ac-  
19 cepted by each such United States attorney and  
20 the status or outcome of each such investiga-  
21 tion.

22 (D) The number of such investigations  
23 that resulted in the imposition of civil or crimi-  
24 nal penalties.

1           (E) A description of the efforts of U.S.  
2           Custom and Border Protection and U.S. Immi-  
3           gration and Customs Enforcement to improve  
4           the success rates of investigations and prosecu-  
5           tions relating to the infringement of intellectual  
6           property rights.

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

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

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

22                 (B) collaboration with private sector enti-  
23                 ties—

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

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

8 (iii) to develop best practices to en-  
9 force intellectual property rights; and

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

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

22 (5) A summary of training relating to the en-  
23 forcement of intellectual property rights conducted  
24 under section 308 of this Act and expenditures for  
25 such training.

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

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

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



1           **TITLE IV—MISCELLANEOUS**  
2                           **PROVISIONS**

3   **SEC. 401. DE MINIMIS VALUE.**

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

7           (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply with respect to articles entered,  
9 or withdrawn from warehouse for consumption, on or after  
10 the 15th day after the date of the enactment of this Act.

11   **SEC. 402. CONSULTATION ON TRADE AND CUSTOMS REV-**  
12                           **ENUE FUNCTIONS.**

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

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

20                   (2) in paragraph (2)(A), by striking “not later  
21                   than 30 days prior to the finalization of” and insert-  
22                   ing “not later than 60 days before proposing, and  
23                   not later than 60 days before finalizing.”

1 **SEC. 403. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

9 “(G) has been convicted of committing or  
10 conspiring to commit an act of terrorism de-  
11 scribed in section 2332b of title 18, United  
12 States Code.”.

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

15 (1) by striking “the Customs Service” each  
16 place it appears and inserting “U.S. Customs and  
17 Border Protection”;

18 (2) in subsection (d)(2)(B), by striking “The  
19 Customs Service” and inserting “U.S. Customs and  
20 Border Protection”; and

21 (3) in subsection (g)(2)(B), by striking “Sec-  
22 retary’s notice” and inserting “notice under sub-  
23 paragraph (A)”.

1 **SEC. 404. 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 (c) DUTY-FREE TREATMENT FOR CERTAIN UNITED  
 2 STATES GOVERNMENT PROPERTY RETURNED TO THE  
 3 UNITED STATES.—

4 (1) IN GENERAL.—Subchapter I of chapter 98  
 5 of the Harmonized Tariff Schedule of the United  
 6 States is amended by inserting in numerical se-  
 7 quence the following new heading:

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property .....	Free	”.
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8 (2) EFFECTIVE DATE.—The amendment made  
 9 by paragraph (1) applies to goods entered, or with-  
 10 drawn from warehouse for consumption, on or after  
 11 the date that is 60 days after the date of the enact-  
 12 ment of this Act.

13 **SEC. 405. EXEMPTION FROM DUTY OF RESIDUE OF BULK**  
 14 **CARGO CONTAINED IN INSTRUMENTS OF**  
 15 **INTERNATIONAL TRAFFIC PREVIOUSLY EX-**  
 16 **PORTED FROM THE UNITED STATES.**

17 (a) IN GENERAL.—General Note 3(e) of the Har-  
 18 monized Tariff Schedule of the United States is amend-  
 19 ed—

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. 406. 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 striking “an amount of drawback equal  
16 to” and all that follows through the end period and  
17 inserting “an amount calculated pursuant to regula-  
18 tions prescribed by the Secretary of the Treasury  
19 under subsection (1), but only if those articles have  
20 not been used prior to such exportation or destruc-  
21 tion.”; and

22           (6) by adding at the end the following:

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



1           “(A) MANUFACTURERS AND PRO-  
2           DUCERS.—Drawback shall be allowed under  
3           paragraph (1) with respect to an article manu-  
4           factured or produced using imported merchan-  
5           dise or other merchandise classifiable under the  
6           same 8-digit HTS subheading number as such  
7           imported merchandise only if the manufacturer  
8           or producer of the article received such im-  
9           ported merchandise or such other merchandise,  
10          directly or indirectly, from the importer.

11          “(B) EXPORTERS AND DESTROYERS.—  
12          Drawback shall be allowed under paragraph (1)  
13          with respect to a manufactured or produced ar-  
14          ticle that is exported or destroyed only if the  
15          exporter or destroyer received that article or an  
16          article classifiable under the same 8-digit HTS  
17          subheading number as that article, directly or  
18          indirectly, from the manufacturer or producer.

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

1           “(3) SUBMISSION OF BILL OF MATERIALS OR  
2           FORMULA.—

3           “(A) IN GENERAL.—Drawback shall be al-  
4           lowed under paragraph (1) with respect to an  
5           article manufactured or produced using im-  
6           ported merchandise or other merchandise classi-  
7           fiable under the same 8-digit HTS subheading  
8           number as such imported merchandise only if  
9           the person making the drawback claim submits  
10          with the claim a bill of materials or formula  
11          identifying the merchandise and article by the  
12          8-digit HTS subheading number and the quan-  
13          tity of the merchandise.

14          “(B) BILL OF MATERIALS AND FORMULA  
15          DEFINED.—In this paragraph, the terms ‘bill of  
16          materials’ and ‘formula’ mean records kept in  
17          the normal course of business that identify each  
18          component incorporated into a manufactured or  
19          produced article or that identify the quantity of  
20          each element, material, chemical, mixture, or  
21          other substance incorporated into a manufac-  
22          tured article.

23          “(4) SPECIAL RULE FOR SOUGHT CHEMICAL  
24          ELEMENTS.—

1           “(A) IN GENERAL.—For purposes of para-  
2 graph (1), a sought chemical element may be—

3           “(i) considered imported merchandise,  
4 or merchandise classifiable under the same  
5 8-digit HTS subheading number as such  
6 imported merchandise, used in the manu-  
7 facture or production of an article as de-  
8 scribed in paragraph (1); and

9           “(ii) substituted for source material  
10 containing that sought chemical element,  
11 without regard to whether the sought  
12 chemical element and the source material  
13 are classifiable under the same 8-digit  
14 HTS subheading number, and apportioned  
15 quantitatively, as appropriate.

16           “(B) SOUGHT CHEMICAL ELEMENT DE-  
17 FINED.—In this paragraph, the term ‘sought  
18 chemical element’ means an element listed in  
19 the Periodic Table of Elements that is imported  
20 into the United States or a chemical compound  
21 consisting of those elements, either separately  
22 in elemental form or contained in source mate-  
23 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, by striking  
24 “the amount of each such duty, tax, and fee”  
25 and all that follows through “99 percent of that

1 duty, tax, or fee” and inserting “an amount  
2 calculated pursuant to regulations prescribed by  
3 the Secretary of the Treasury under subsection  
4 (1) shall be refunded as drawback”;

5 (3) in paragraph (3)(B), by striking “the com-  
6 mercially interchangeable merchandise” and insert-  
7 ing “merchandise classifiable under the same 8-digit  
8 HTS subheading number as such imported merchan-  
9 dise”; and

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

11 “(5)(A) For purposes of paragraph (2) and ex-  
12 cept as provided in subparagraph (B), merchandise  
13 may not be substituted for imported merchandise for  
14 drawback purposes based on the 8-digit HTS sub-  
15 heading number if the article description for the 8-  
16 digit HTS subheading number under which the im-  
17 ported merchandise is classified begins with the term  
18 ‘other’.

19 “(B) In cases described in subparagraph (A),  
20 merchandise may be substituted for imported mer-  
21 chandise for drawback purposes if—

22 “(i) the other merchandise and such im-  
23 ported merchandise are classifiable under the  
24 same 10-digit HTS statistical reporting num-  
25 ber; and



1           “(ii) the article description for that 10-  
2           digit HTS statistical reporting number does not  
3           begin with the term ‘other’.

4           “(6)(A) For purposes of paragraph (2), a draw-  
5           back claimant may use the first 8 digits of the 10-  
6           digit Schedule B number for merchandise or an arti-  
7           cle to determine if the merchandise or article is clas-  
8           sifiable under the same 8-digit HTS subheading  
9           number as the imported merchandise, without re-  
10          gard to whether the Schedule B number corresponds  
11          to more than one 8-digit HTS subheading number.

12          “(B) In this paragraph, the term ‘Schedule B’  
13          means the Department of Commerce Schedule B,  
14          Statistical Classification of Domestic and Foreign  
15          Commodities Exported from the United States.”.

16          (f) LIABILITY FOR DRAWBACK CLAIMS.—Section  
17          313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is  
18          amended to read as follows:

19          “(k) LIABILITY FOR DRAWBACK CLAIMS.—

20                  “(1) IN GENERAL.—Any person making a claim  
21                  for drawback under this section shall be liable for  
22                  the full amount of the drawback claimed.

23                  “(2) LIABILITY OF IMPORTERS.—An importer  
24                  shall be liable for any drawback claim made by an-  
25                  other person with respect to merchandise imported

1 by the importer in an amount equal to the lesser  
2 of—

3 “(A) the amount of duties, taxes, and fees  
4 that the person claimed with respect to the im-  
5 ported merchandise; or

6 “(B) the amount of duties, taxes, and fees  
7 that the importer authorized the other person  
8 to claim with respect to the imported merchan-  
9 dise.

10 “(3) JOINT AND SEVERAL LIABILITY.—Persons  
11 described in paragraphs (1) and (2) shall be jointly  
12 and severally liable for the amount described in  
13 paragraph (2).”.

14 (g) REGULATIONS.—Section 313(l) of the Tariff Act  
15 of 1930 (19 U.S.C. 1313(l)) is amended to read as follows:

16 “(l) REGULATIONS.—

17 “(1) IN GENERAL.—Allowance of the privileges  
18 provided for in this section shall be subject to com-  
19 pliance with such rules and regulations as the Sec-  
20 retary of the Treasury shall prescribe.

21 “(2) CALCULATION OF DRAWBACK.—

22 “(A) IN GENERAL.—Not later than the  
23 date that is 2 years after the date of the enact-  
24 ment of the Trade Facilitation and Trade En-  
25 forcement Act of 2015 (or, if later, the effective

1 date provided for in section 406(q)(2)(B) of  
2 that Act), the Secretary shall prescribe regula-  
3 tions for determining the calculation of  
4 amounts refunded as drawback under this sec-  
5 tion.

6 “(B) REQUIREMENTS.—The regulations  
7 required by subparagraph (A) for determining  
8 the calculation of amounts refunded as draw-  
9 back under this section shall provide for a re-  
10 fund of up to 99 percent of the duties, taxes,  
11 and fees paid with respect to the imported mer-  
12 chandise, except that where there is substi-  
13 tution of the merchandise or article, then—

14 “(i) in the case of an article that is  
15 exported, the amount of the refund shall  
16 be equal to 99 percent of the lesser of—

17 “(I) the amount of duties, taxes,  
18 and fees paid with respect to the im-  
19 ported merchandise; or

20 “(II) the amount of duties, taxes,  
21 and fees that would apply to the ex-  
22 ported article if the exported article  
23 were imported; and

1           “(ii) in the case of an article that is  
2 destroyed, the amount of the refund shall  
3 be an amount that is—

4                   “(I) equal to 99 percent of the  
5 lesser of—

6                           “(aa) the amount of duties,  
7 taxes, and fees paid with respect  
8 to the imported merchandise; and

9                           “(bb) the amount of duties,  
10 taxes, and fees that would apply  
11 to the destroyed article if the de-  
12 stroyed article were imported;  
13 and

14                   “(II) reduced by the value of ma-  
15 terials recovered during destruction as  
16 provided in subsection (x).

17           “(3) STATUS REPORTS ON REGULATIONS.—Not  
18 later than the date that is one year after the date  
19 of the enactment of the Trade Facilitation and  
20 Trade Enforcement Act of 2015, and annually there-  
21 after until the regulations required by paragraph (2)  
22 are final, the Secretary shall submit to Congress a  
23 report on the status of those regulations.”.

1 (h) SUBSTITUTION OF FINISHED PETROLEUM DE-  
2 RIVATIVES.—Section 313(p) of the Tariff Act of 1930 (19  
3 U.S.C. 1313(p)) is amended—

4 (1) by striking “Harmonized Tariff Schedule of  
5 the United States” each place it appears and insert-  
6 ing “HTS”; and

7 (2) in paragraph (3)(A)—

8 (A) in clause (ii)(III), by striking “, as so  
9 certified in a certificate of delivery or certificate  
10 of manufacture and delivery”; and

11 (B) in the flush text at the end—

12 (i) by striking “, as so designated on  
13 the certificate of delivery or certificate of  
14 manufacture and delivery”; and

15 (ii) by striking the last sentence and  
16 inserting the following: “The party trans-  
17 ferring the merchandise shall maintain  
18 records kept in the normal course of busi-  
19 ness to demonstrate the transfer.”.

20 (i) PACKAGING MATERIAL.—Section 313(q) of the  
21 Tariff Act of 1930 (19 U.S.C. 1313(q)) is amended—

22 (1) in paragraph (1), by striking “of 99 percent  
23 of any duty, tax, or fee imposed under Federal law  
24 on such imported material” and inserting “in an  
25 amount calculated pursuant to regulations pre-

1 scribed by the Secretary of the Treasury under sub-  
2 section (1)”;

3 (2) in paragraph (2), by striking “of 99 percent  
4 of any duty, tax, or fee imposed under Federal law  
5 on the imported or substituted merchandise used to  
6 manufacture or produce such material” and insert-  
7 ing “in an amount calculated pursuant to regula-  
8 tions prescribed by the Secretary of the Treasury  
9 under subsection (1)”; and

10 (3) in paragraph (3), by striking “they contain”  
11 and inserting “it contains”.

12 (j) FILING OF DRAWBACK CLAIMS.—Section 313(r)  
13 of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amend-  
14 ed—

15 (1) in paragraph (1)—

16 (A) by striking the first sentence and in-  
17 serting the following: “A drawback entry shall  
18 be filed or applied for, as applicable, not later  
19 than 5 years after the date on which merchan-  
20 dise on which drawback is claimed was im-  
21 ported.”;

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

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

4 (2) in paragraph (3)—

5 (A) in subparagraph (A)—

6 (i) in the matter preceding clause (i),  
7 by striking “The Customs Service” and in-  
8 serting “U.S. Customs and Border Protec-  
9 tion”;

10 (ii) in clauses (i) and (ii), by striking  
11 “the Customs Service” each place it ap-  
12 pears and inserting “U.S. Customs and  
13 Border Protection”; and

14 (iii) in clause (ii)(I), by striking “3-  
15 year” and inserting “5-year”; and

16 (B) in subparagraph (B), by striking “the  
17 periods of time for retaining records set forth  
18 in subsection (t) of this section and” and in-  
19 serting “the period of time for retaining records  
20 set forth in”; and

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

22 “(4) All drawback claims filed on and after the  
23 date that is 2 years after the date of the enactment  
24 of the Trade Facilitation and Trade Enforcement  
25 Act of 2015 (or, if later, the effective date provided

1 for in section 406(q)(2)(B) of that Act) shall be filed  
2 electronically.”.

3 (k) DESIGNATION OF MERCHANDISE BY SUC-  
4 CESSOR.—Section 313(s) of the Tariff Act of 1930 (19  
5 U.S.C. 1313(s)) is amended—

6 (1) in paragraph (2), by striking subparagraph  
7 (B) and inserting the following:

8 “(B) subject to paragraphs (5) and (6) of  
9 subsection (j), imported merchandise, other  
10 merchandise classifiable under the same 8-digit  
11 HTS subheading number as such imported  
12 merchandise, or any combination of such im-  
13 ported merchandise and such other merchan-  
14 dise, that the predecessor received, before the  
15 date of succession, from the person who im-  
16 ported and paid any duties, taxes, and fees due  
17 on the imported merchandise;”; and

18 (2) in paragraph (4), by striking “certifies  
19 that” and all that follows and inserting “certifies  
20 that the transferred merchandise was not and will  
21 not be claimed by the predecessor.”.

22 (l) DRAWBACK CERTIFICATES.—Section 313 of the  
23 Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-  
24 ing subsection (t).



1 (m) DRAWBACK FOR RECOVERED MATERIALS.—Sec-  
2 tion 313(x) of the Tariff Act of 1930 (19 U.S.C. 1313(x))  
3 is amended by striking “and (c)” and inserting “(c), and  
4 (j)”.

5 (n) DEFINITIONS.—Section 313 of the Tariff Act of  
6 1930 (19 U.S.C. 1313) is amended by adding at the end  
7 the following:

8 “(z) DEFINITIONS.—In this section:

9 “(1) DIRECTLY.—The term ‘directly’ means a  
10 transfer of merchandise or an article from one per-  
11 son to another person without any intermediate  
12 transfer.

13 “(2) HTS.—The term ‘HTS’ means the Har-  
14 monized Tariff Schedule of the United States.

15 “(3) INDIRECTLY.—The term ‘indirectly’ means  
16 a transfer of merchandise or an article from one per-  
17 son to another person with one or more intermediate  
18 transfers.”.

19 (o) RECORDKEEPING.—Section 508(c)(3) of the Tar-  
20 iff Act of 1930 (19 U.S.C. 1508(c)(3)) is amended—

21 (1) by striking “3rd” and inserting “5th”; and

22 (2) by striking “payment” and inserting “liq-  
23 uidation”.

24 (p) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
25 PORT.—

1           (1) IN GENERAL.—Not later than one year  
2 after the issuance of the regulations required by sub-  
3 section (l)(2) of section 313 of the Tariff Act of  
4 1930, as added by subsection (g), the Comptroller  
5 General of the United States shall submit to the  
6 Committee on Finance of the Senate and the Com-  
7 mittee on Ways and Means of the House of Rep-  
8 resentatives a report on the modernization of draw-  
9 back and refunds under section 313 of the Tariff  
10 Act of 1930, as amended by this section.

11           (2) CONTENTS.—The report required by para-  
12 graph (1) include the following:

13                   (A) An assessment of the modernization of  
14 drawback and refunds under section 313 of the  
15 Tariff Act of 1930, as amended by this section.

16                   (B) A description of drawback claims that  
17 were permissible before the effective date pro-  
18 vided for in subsection (q) that are not permis-  
19 sible after that effective date and an identifica-  
20 tion of industries most affected.

21                   (C) A description of drawback claims that  
22 were not permissible before the effective date  
23 provided for in subsection (q) that are permis-  
24 sible after that effective date and an identifica-  
25 tion of industries most affected.

1 (q) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall—

4 (A) take effect on the date of the enact-  
5 ment of this Act; and

6 (B) except as provided in paragraphs  
7 (2)(B) and (3), apply to drawback claims filed  
8 on or after the date that is 2 years after such  
9 date of enactment.

10 (2) REPORTING OF OPERABILITY OF AUTO-  
11 MATED COMMERCIAL ENVIRONMENT COMPUTER SYS-  
12 TEM.—

13 (A) IN GENERAL.—Not later than one year  
14 after the date of the enactment of this Act, and  
15 not later than 2 years after such date of enact-  
16 ment, the Secretary of the Treasury shall sub-  
17 mit to Congress a report on—

18 (i) the date on which the Automated  
19 Commercial Environment will be ready to  
20 process drawback claims; and

21 (ii) the date on which the Automated  
22 Export System will be ready to accept  
23 proof of exportation under subsection (i) of  
24 section 313 of the Tariff Act of 1930, as  
25 amended by subsection (d).

1           (B) DELAY OF EFFECTIVE DATE.—If the  
2           Secretary indicates in the report required by  
3           subparagraph (A) that the Automated Commer-  
4           cial Environment will not be ready to process  
5           drawback claims by the date that is 2 years  
6           after the date of the enactment of this Act, the  
7           amendments made by this section shall apply to  
8           drawback claims filed on and after the date on  
9           which the Secretary certifies that the Auto-  
10          mated Commercial Environment is ready to  
11          process drawback claims.

12          (3) TRANSITION RULE.—During the one-year  
13          period beginning on the date that is 2 years after  
14          the date of the enactment of this Act (or, if later,  
15          the effective date provided for in paragraph (2)(B)),  
16          a person may elect to file a claim for drawback  
17          under—

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

20                 (B) section 313 of the Tariff Act of 1930,  
21                 as in effect on the day before the date of the  
22                 enactment of this Act.

1 **SEC. 407. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**  
2 **TION TO PROHIBITION ON IMPORTATION OF**  
3 **GOODS MADE WITH CONVICT LABOR,**  
4 **FORCED LABOR, OR INDENTURED LABOR; RE-**  
5 **PORT.**

6 (a) **ELIMINATION OF CONSUMPTIVE DEMAND EX-**  
7 **CEPTION.—**

8 (1) **IN GENERAL.—**Section 307 of the Tariff  
9 Act of 1930 (19 U.S.C. 1307) is amended by strik-  
10 ing “The provisions of this section” and all that fol-  
11 lows through “of the United States.”.

12 (2) **EFFECTIVE DATE.—**The amendment made  
13 by paragraph (1) shall take effect on the date that  
14 is 15 days after the date of the enactment of this  
15 Act.

16 (b) **REPORT REQUIRED.—**Not later than 180 days  
17 after the date of the enactment of this Act, and annually  
18 thereafter, the Commissioner of U.S. Customs and Border  
19 Protection shall submit to the Committee on Finance of  
20 the Senate and the Committee on Ways and Means of the  
21 House of Representatives a report on compliance with sec-  
22 tion 307 of the Tariff Act of 1930 (19 U.S.C. 1307) that  
23 includes the following:

24 (1) The number of instances in which merchan-  
25 dise was denied entry pursuant to that section dur-

1 ing the 1-year period preceding the submission of  
2 the report.

3 (2) A description of the merchandise denied  
4 entry pursuant to that section.

5 (3) Such other information as the Commis-  
6 sioner considers appropriate with respect to moni-  
7 toring and enforcing compliance with that section.

8 **TITLE V—PREVENTION OF EVA-**  
9 **SION OF ANTIDUMPING AND**  
10 **COUNTERVAILING DUTY OR-**  
11 **DERS**

12 **Subtitle A—Actions Relating to En-**  
13 **forcement of Trade Remedy**  
14 **Laws**

15 **SEC. 501. PREVENTION AND INVESTIGATION OF EVASION.**

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

19 **“SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF**  
20 **EVASION OF ANTIDUMPING AND COUNTER-**  
21 **VAILING DUTY ORDERS.**

22 “(a) DEFINITIONS.—In this section:

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

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

4                   “(A) the Committee on Finance and the  
5                   Committee on Appropriations of the Senate;  
6                   and

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

10           “(3) COMMISSIONER.—The term ‘Commis-  
11           sioner’ means the Commissioner responsible for U.S.  
12           Customs and Border Protection.

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

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

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

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

22           “(5) ELIGIBLE SMALL BUSINESS.—

23                   “(A) IN GENERAL.—The term ‘eligible  
24                   small business’ means any business concern  
25                   which, in the Commissioner’s judgment, due to

1 its small size, has neither adequate internal re-  
2 sources nor financial ability to obtain qualified  
3 outside assistance in preparing and submitting  
4 for consideration allegations of evasion.

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

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

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

24 “(8) INTERESTED PARTY.—The term ‘inter-  
25 ested party’ has the meaning given the term in sec-



1       tion 771(9) (other than subparagraph (A) or (B) of  
2       such section).

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

5               “(10) TRADE REMEDY LAWS.—The term ‘trade  
6       remedy laws’ means title VII of the Tariff Act of  
7       1930.

8               “(b) TRADE REMEDY LAW ENFORCEMENT DIVI-  
9       SION.—

10              “(1) ESTABLISHMENT.—

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

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

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

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

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

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

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

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

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

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

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

4           “(A) directing the trade enforcement and  
5 compliance assessment activities of U.S. Cus-  
6 toms and Border Protection that concern eva-  
7 sion;

8           “(B) facilitating, promoting, and coordi-  
9 nating cooperation and the exchange of infor-  
10 mation between U.S. Customs and Border Pro-  
11 tection, U.S. Immigration and Customs En-  
12 forcement, and other relevant agencies regard-  
13 ing evasion;

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

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

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

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

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

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

21 “(A) establish targeted risk assessment  
22 methodologies and standards—

23 “(i) for evaluating the risk that cargo  
24 destined for the United States may con-  
25 stitute evading covered merchandise; and

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

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

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

24                  “(c) PROCEDURES FOR INVESTIGATING ALLEGA-  
25                  TIONS OF EVASION.—

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

2                   “(A) IN GENERAL.—Not later than 10  
3 days after the date on which the Commissioner  
4 receives a petition described in subparagraph  
5 (B) or a referral described in subparagraph (C),  
6 the Commissioner shall initiate an investigation  
7 pursuant to this paragraph.

8                   “(B) PETITION DESCRIBED.—A petition  
9 described in this subparagraph is a petition  
10 that—

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

14                           “(ii) alleges that a person has entered  
15 covered merchandise into the customs ter-  
16 ritory of the United States through eva-  
17 sion; and

18                           “(iii) is accompanied by information  
19 reasonably available to the petitioner sup-  
20 porting the allegation.

21                   “(C) REFERRAL DESCRIBED.—A referral  
22 described in this subparagraph is information  
23 submitted to the Commissioner by any other  
24 Federal agency, including the Department of  
25 Commerce or the United States International

1 Trade Commission, indicating that a person has  
2 entered covered merchandise into the customs  
3 territory of the United States through evasion.

4 “(2) DETERMINATIONS.—

5 “(A) PRELIMINARY DETERMINATION.—

6 “(i) IN GENERAL.—Not later than 90  
7 days after the date on which the Commis-  
8 sioner initiates an investigation under  
9 paragraph (1), the Commissioner shall  
10 issue a preliminary determination, based  
11 on information available to the Commis-  
12 sioner at the time of the determination,  
13 with respect to whether there is a reason-  
14 able basis to believe or suspect that the  
15 covered merchandise was entered into the  
16 customs territory of the United States  
17 through evasion.

18 “(ii) EXTENSION.—The Commissioner  
19 may extend by not more than 45 days the  
20 time period specified in clause (i) if the  
21 Commissioner determines that sufficient  
22 information to make a preliminary deter-  
23 mination under that clause is not available  
24 within that time period or the inquiry is  
25 unusually complex.

1 “(B) FINAL DETERMINATION.—

2 “(i) IN GENERAL.—Not later than  
3 120 days after making a preliminary deter-  
4 mination under subparagraph (A), the  
5 Commissioner shall make a final deter-  
6 mination, based on substantial evidence,  
7 with respect to whether covered merchan-  
8 dise was entered into the customs territory  
9 of the United States through evasion.

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

18 “(iii) OPPORTUNITY FOR COMMENT;  
19 HEARING.—After making a preliminary de-  
20 termination under subparagraph (A) and  
21 before issuing a final determination under  
22 this subparagraph with respect to whether  
23 covered merchandise was entered into the  
24 customs territory of the United States  
25 through evasion, the Commissioner shall—



1           “(I) provide any person alleged  
2           to have entered the merchandise into  
3           the customs territory of the United  
4           States through evasion, and any per-  
5           son that is an interested party with  
6           respect to the merchandise, with an  
7           opportunity to be heard;

8           “(II) upon request, hold a hear-  
9           ing with respect to whether the cov-  
10          ered merchandise was entered into the  
11          customs territory of the United States  
12          through evasion; and

13          “(III) provide an opportunity for  
14          public comment.

15          “(C) AUTHORITY TO COLLECT AND VERIFY  
16          ADDITIONAL INFORMATION.—In making a pre-  
17          liminary determination under subparagraph (A)  
18          or a final determination under subparagraph  
19          (B), the Commissioner—

20                 “(i) shall exercise all existing authori-  
21                 ties to collect information needed to make  
22                 the determination; and

23                 “(ii) may collect such additional infor-  
24                 mation as is necessary to make the deter-  
25                 mination through such methods as the

1 Commissioner considers appropriate, in-  
2 cluding by—

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

5 “(aa) a person that filed a  
6 petition under paragraph (1)(B);

7 “(bb) a person alleged to  
8 have entered covered merchan-  
9 dise into the customs territory of  
10 the United States through eva-  
11 sion; or

12 “(cc) any other person that  
13 is an interested party with re-  
14 spect to the covered merchandise;  
15 or

16 “(II) conducting verifications, in-  
17 cluding on-site verifications, of any  
18 relevant information.

19 “(D) ADVERSE INFERENCE.—

20 “(i) IN GENERAL.—If the Commis-  
21 sioner finds that a person that filed a peti-  
22 tion under paragraph (1)(B), a person al-  
23 leged to have entered covered merchandise  
24 into the customs territory of the United  
25 States through evasion, or a foreign pro-

1           ducer or exporter, has failed to cooperate  
2           by not acting to the best of the person’s  
3           ability to comply with a request for infor-  
4           mation, the Commissioner may, in making  
5           a preliminary determination under sub-  
6           paragraph (A) or a final determination  
7           under subparagraph (B), use an inference  
8           that is adverse to the interests of that per-  
9           son in selecting from among the facts oth-  
10          erwise available to determine whether eva-  
11          sion has occurred.

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

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

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

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

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

3                   “(E) NOTIFICATION AND PUBLICATION.—  
4                   Not later than 7 days after making a prelimi-  
5                   nary determination under subparagraph (A) or  
6                   a final determination under subparagraph (B),  
7                   the Commissioner shall—

8                   “(i) provide notification of the deter-  
9                   mination to—

10                   “(I) the administering authority;  
11                   and

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

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

19                   “(3) BUSINESS PROPRIETARY INFORMATION.—

20                   “(A) ESTABLISHMENT OF PROCEDURES.—

21                   For each investigation initiated under para-  
22                   graph (1), the Commissioner shall establish  
23                   procedures for the submission of business pro-  
24                   prietary information under an administrative  
25                   protective order that—

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

3 “(ii) for purposes of submitting com-  
4 ments to the Commissioner, provides lim-  
5 ited access to such information for—

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

11 “(II) the person alleged to have  
12 entered covered merchandise into the  
13 customs territory of the United States  
14 through evasion.

15 “(B) ADMINISTRATION IN ACCORDANCE  
16 WITH OTHER PROCEDURES.—The procedures  
17 established under subparagraph (A) shall be ad-  
18 ministered, to the maximum extent practicable,  
19 in accordance with administrative protective  
20 order procedures under section 777 by the ad-  
21 ministering authority.

22 “(C) DISCLOSURE OF BUSINESS PROPRI-  
23 ETARY INFORMATION.—The Commissioner  
24 shall, in accordance with the procedures estab-  
25 lished under subparagraph (A), make all busi-

1           ness proprietary information presented to, or  
2           obtained by, the Commissioner during an inves-  
3           tigation available to the persons specified in  
4           subparagraph (A)(ii) under an administrative  
5           protective order, regardless of when such infor-  
6           mation is submitted during an investigation.

7           “(4) REFERRALS TO OTHER FEDERAL AGEN-  
8           CIES.—

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

17                  “(B) AFTER FINAL DETERMINATION.—  
18                  Notwithstanding section 777 and subject to  
19                  subparagraph (C), when the Commissioner  
20                  makes an affirmative final determination under  
21                  paragraph (2)(B), the Commissioner shall, at  
22                  the request of the head of another Federal  
23                  agency, transmit the complete administrative  
24                  record to the head of that agency.

1           “(C) PROTECTIVE ORDERS.—Before trans-  
2           mitting an administrative record to the head of  
3           another Federal agency under subparagraph  
4           (A) or (B), the Commissioner shall verify that  
5           the other agency has in effect with respect to  
6           the administrative record a protective order  
7           that provides the same or a similar level of pro-  
8           tection for the information in the administrative  
9           record as the protective order in effect with re-  
10          spect to such information under this subsection.

11          “(d) EFFECT OF DETERMINATIONS.—

12           “(1) EFFECT OF AFFIRMATIVE PRELIMINARY  
13          DETERMINATION.—If the Commissioner makes a  
14          preliminary determination in accordance with sub-  
15          section (c)(2)(A) that there is a reasonable basis to  
16          believe or suspect that covered merchandise was en-  
17          tered into the customs territory of the United States  
18          through evasion, the Commissioner shall—

19           “(A) suspend the liquidation of each unliq-  
20          uidated entry of the covered merchandise that  
21          is subject to the preliminary determination and  
22          that entered on or after the date of the initi-  
23          ation of the investigation under paragraph (1)  
24          and, pursuant to the Commissioner’s authority  
25          under section 504(b), extend liquidation of each

1 unliquidated entry of the covered merchandise  
2 that is subject to the preliminary determination  
3 and that entered prior to the date of the initi-  
4 ation of the investigation under paragraph (1);

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

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

12 “(D) take such other measures as the  
13 Commissioner determines appropriate to ensure  
14 the collection of any duties that may be owed  
15 with respect to merchandise described in sub-  
16 paragraph (A) as a result of a final determina-  
17 tion under subsection (c)(2)(B).

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



1 authority pending a final determination under sub-  
2 section (c)(2)(B).

3 “(3) EFFECT OF AFFIRMATIVE FINAL DETER-  
4 MINATION.—If the Commissioner makes a final de-  
5 termination in accordance with subsection (c)(2)(B)  
6 that covered merchandise was entered into the cus-  
7 toms territory of the United States through evasion,  
8 the Commissioner shall—

9 “(A) suspend or continue to suspend, as  
10 the case may be, the liquidation of each entry  
11 of the covered merchandise that is subject to  
12 the determination and that enters on or after  
13 the date of the determination and, pursuant to  
14 the Commissioner’s authority under section  
15 504(b), extend or continue to extend, as the  
16 case may be, the liquidation of each entry of  
17 the covered merchandise that is subject to the  
18 determination and that entered prior to the  
19 date of the determination;

20 “(B) notify the administering authority of  
21 the determination and request that the admin-  
22 istering authority—

23 “(i) identify the applicable anti-  
24 dumping or countervailing duty assessment  
25 rate for the entries for which liquidation is

1           suspended under paragraph (1)(A) or sub-  
2           paragraph (A) of this paragraph; or

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

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

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

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

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

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

9           “(iii) requiring, with respect to mer-  
10          chandise for which the importer has re-  
11          peatedly provided incomplete or erroneous  
12          entry summary information in connection  
13          with determinations of evasion, the im-  
14          porter to submit entry summary docu-  
15          mentation and to deposit estimated duties  
16          at the time of entry;

17          “(iv) referring the record in whole or  
18          in part to U.S. Immigration and Customs  
19          Enforcement for civil or criminal investiga-  
20          tion; and

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

24           “(4) EFFECT OF NEGATIVE FINAL DETERMINA-  
25          TION.—If the Commissioner makes a final deter-

1 mination in accordance with subsection (c)(2)(B)  
2 that covered merchandise was not entered into the  
3 customs territory of the United States through eva-  
4 sion, the Commissioner shall terminate the suspen-  
5 sion of liquidation pursuant to paragraph (1)(A) and  
6 refund any cash deposits collected pursuant to para-  
7 graph (1)(C) that are in excess of the cash deposit  
8 rate that would otherwise have been applicable the  
9 merchandise.

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

12 “(A) IN GENERAL.—Upon receiving a noti-  
13 fication from the Commissioner under para-  
14 graph (3)(B), the administering authority shall  
15 promptly provide to the Commissioner the ap-  
16 plicable cash deposit rates and antidumping or  
17 countervailing duty assessment rates and any  
18 necessary liquidation instructions.

19 “(B) SPECIAL RULE FOR CASES IN WHICH  
20 THE PRODUCER OR EXPORTER IS UNKNOWN.—

21 If the Commissioner and administering author-  
22 ity are unable to determine the producer or ex-  
23 porter of the merchandise with respect to which  
24 a notification is made under paragraph (3)(B),  
25 the administering authority shall identify, as

1 the applicable cash deposit rate or antidumping  
2 or countervailing duty assessment rate, the cash  
3 deposit or duty (as the case may be) in the  
4 highest amount applicable to any producer or  
5 exporter, including the ‘all-others’ rate of the  
6 merchandise subject to an antidumping order or  
7 countervailing duty order under section 736 or  
8 706, respectively, or a finding issued under the  
9 Antidumping Act, 1921, or any administrative  
10 review conducted under section 751.

11 “(e) SPECIAL RULES.—

12 “(1) EFFECT ON OTHER AUTHORITIES.—Nei-  
13 ther the initiation of an investigation under sub-  
14 section (c)(1) nor a preliminary determination or a  
15 final determination under subsection (c)(2) shall af-  
16 fect the authority of the Commissioner—

17 “(A) to pursue such other enforcement  
18 measures with respect to the evasion of anti-  
19 dumping or countervailing duties as the Com-  
20 missioner determines necessary, including en-  
21 forcement measures described in clauses (i)  
22 through (iv) of subsection (d)(3)(E); or

23 “(B) to assess any penalties or collect any  
24 applicable duties, taxes, and fees, including pur-  
25 suant to section 592.

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

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

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

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

19          (b) TECHNICAL AMENDMENT.—Clause (ii) of section  
20          777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C.  
21          1677f(b)(1)(A)) is amended to read as follows:

22                   “(ii) to an officer or employee of U.S.  
23                   Customs and Border Protection who is di-  
24                   rectly involved in conducting an investiga-

1                   tion regarding fraud under this title or  
2                   claims of evasion under section 516B.”.

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

5                   (1) in subparagraph (A)—

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

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

10                           (C) by inserting after clause (ii) the fol-  
11 lowing:

12                                   “(iii) the date of publication in the  
13 Federal Register of a determination de-  
14 scribed in clause (ix) of subparagraph  
15 (B),”; and

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

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

24           (d) FINALITY OF DETERMINATIONS.—Section 514(b)  
25 of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended

1 by striking “section 303” and all that follows through  
2 “which are reviewable” and inserting “section 516B or  
3 title VII that are reviewable”.

4 **SEC. 502. APPLICATION TO CANADA AND MEXICO.**

5 Pursuant to article 1902 of the North American Free  
6 Trade Agreement and section 408 of the North American  
7 Free Trade Agreement Implementation Act (19 U.S.C.  
8 3438), the amendments made by this title shall apply with  
9 respect to goods from Canada and Mexico.

10 **Subtitle B—Other Matters**

11 **SEC. 511. DEFINITIONS.**

12 In this subtitle, the terms “appropriate congressional  
13 committees”, “Commissioner”, “covered merchandise”,  
14 “enter” and “entry”, and “evade” and “evasion” have the  
15 meanings given those terms in section 516B(a) of the Tar-  
16 iff Act of 1930 (as added by section 501(a) of this Act).

17 **SEC. 512. ALLOCATION AND TRAINING OF PERSONNEL.**

18 (a) REASSIGNMENT AND ALLOCATION.—The Com-  
19 missioner shall, to the maximum extent possible, ensure  
20 that U.S. Customs and Border Protection—

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



1           (2) on the basis of risk assessment metrics, as-  
2           signs sufficient personnel with primary responsibility  
3           for preventing the entry of covered merchandise into  
4           the customs territory of the United States through  
5           evasion to the ports of entry in the United States at  
6           which the Commissioner determines potential eva-  
7           sion presents the most substantial threats to the rev-  
8           enue of the United States; and

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

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

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

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

1 **SEC. 513. REGULATIONS.**

2 (a) IN GENERAL.—Not later than 240 days after the  
3 date of the enactment of this Act, the Commissioner shall  
4 issue regulations to carry out this title and the amend-  
5 ments made by this title.

6 (b) COOPERATION BETWEEN U.S. CUSTOMS AND  
7 BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS  
8 ENFORCEMENT, AND DEPARTMENT OF COMMERCE.—Not  
9 later than 240 days after the date of the enactment of  
10 this Act, the Commissioner, the Assistant Secretary for  
11 U.S. Immigration and Customs Enforcement, and the Sec-  
12 retary of Commerce shall establish procedures to ensure  
13 maximum cooperation and communication between U.S.  
14 Customs and Border Protection, U.S. Immigration and  
15 Customs Enforcement, and the Department of Commerce  
16 in order to quickly, efficiently, and accurately investigate  
17 allegations of evasion under section 516B of the Tariff  
18 Act of 1930 (as added by section 501(a) of this Act).

19 **SEC. 514. ANNUAL REPORT ON PREVENTION OF EVASION**  
20 **OF ANTIDUMPING AND COUNTERVAILING**  
21 **DUTY ORDERS.**

22 (a) IN GENERAL.—Not later than February 28 of  
23 each year, beginning in 2016, the Commissioner, in con-  
24 sultation with the Secretary of Commerce and the Assist-  
25 ant Secretary for U.S. Immigration and Customs Enforce-  
26 ment, shall submit to the appropriate congressional com-

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

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

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

7 (A) a summary of the efforts of U.S. Cus-  
8 toms and Border Protection to prevent and in-  
9 vestigate evasion;

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

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

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

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

1 (F) a description of the allocation of per-  
2 sonnel and other resources of U.S. Customs and  
3 Border Protection and U.S. Immigration and  
4 Customs Enforcement to prevent and investiga-  
5 tion evasion, including any assessments con-  
6 ducted regarding the allocation of such per-  
7 sonnel and resources; and

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

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

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

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

21 (C) identification of any changes since the  
22 last report that have materially improved or re-  
23 duced the effectiveness of U.S. Customs and  
24 Border Protection to prevent and investigate  
25 evasion;

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

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

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

19 **SEC. 515. GOVERNMENT ACCOUNTABILITY OFFICE REPORT**  
20 **ON RELIQUIDATION AUTHORITY.**

21 Not later than 60 days after the date of the enact-  
22 ment of this Act, the Comptroller General of the United  
23 States shall submit to the appropriate congressional com-  
24 mittees, and make available to the public, a report esti-  
25 mating the amount of duties that could not be collected

1 on covered merchandise that entered the customs territory  
2 of the United States through evasion during fiscal years  
3 2014 and 2015 because the Commissioner did not have  
4 the authority to reliquidate the entries of such merchan-  
5 dise.

6 **SEC. 516. ADDRESSING CIRCUMVENTION BY NEW SHIP-**  
7 **PERS.**

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

10 (1) by striking clause (iii);

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

12 and

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

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

1           fide, the administering authority shall con-  
2           sider, depending on the circumstances sur-  
3           rounding such sales—

4                   “(I) the prices of such sales;

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

7                   “(III) the timing of such sales;

8                   “(IV) the expenses arising from  
9           such sales;

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

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

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

○